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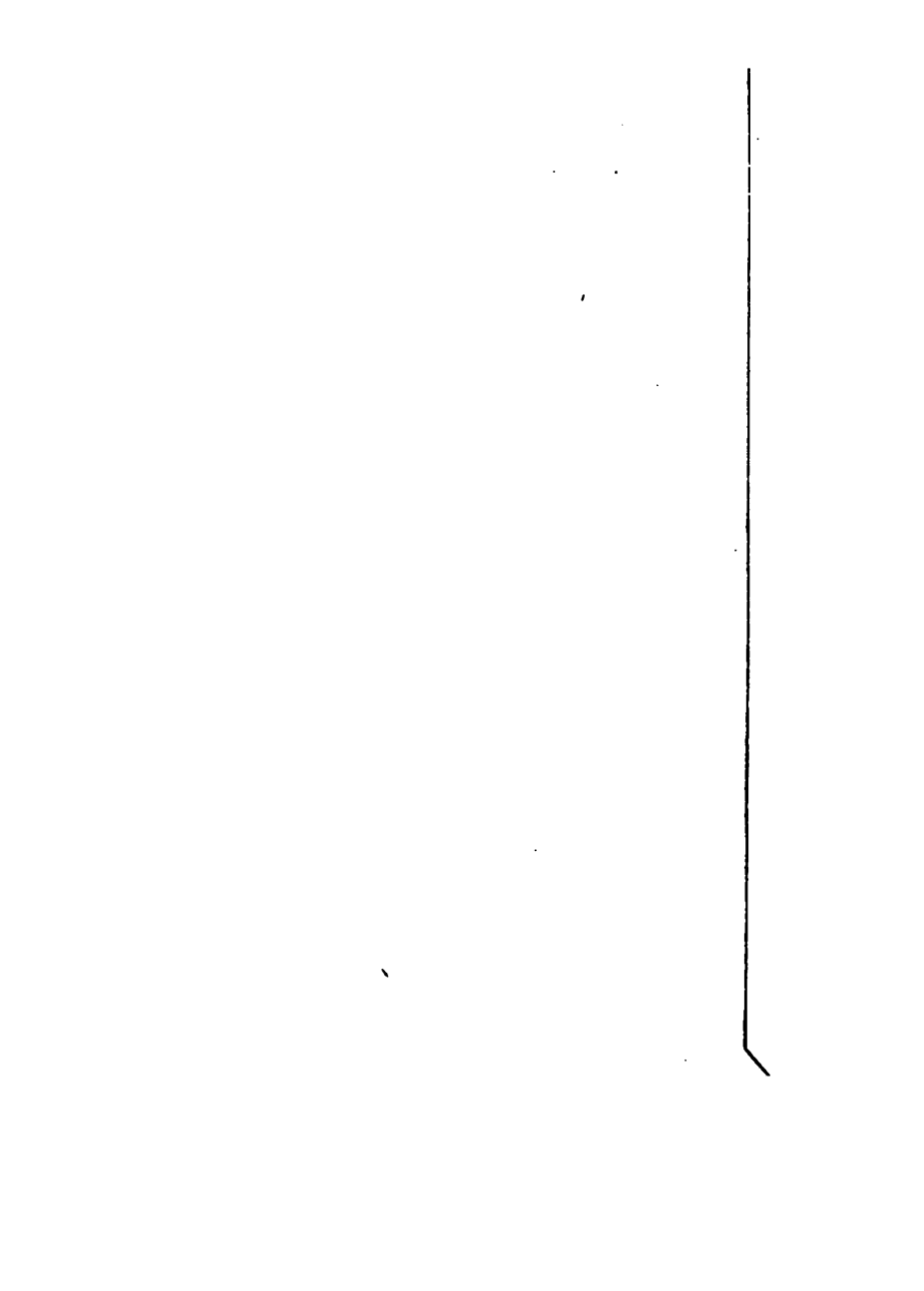

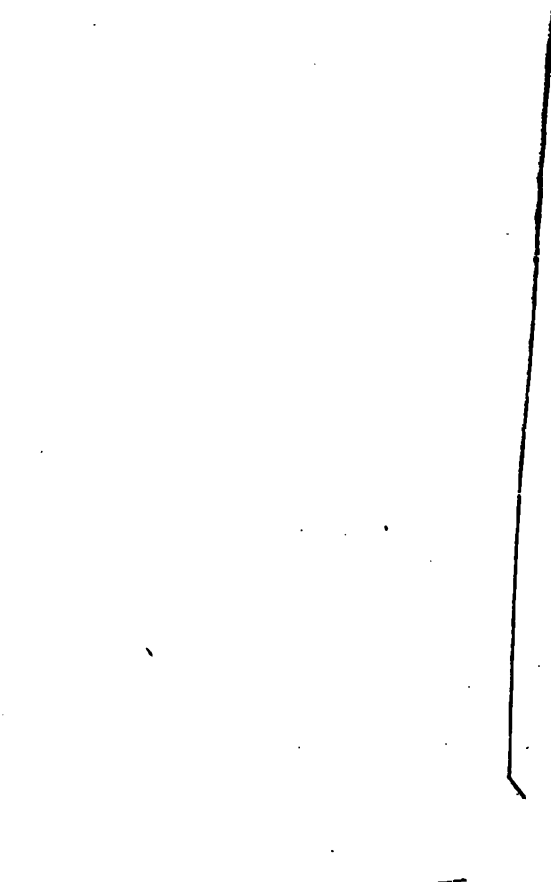

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OF THE

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OF THE

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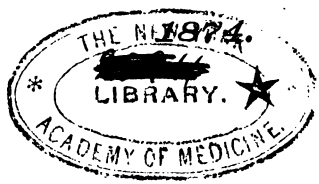
OF THE

CITY OF NEW YORK.



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BOARD OF HEALTH.

Office, No. 301 Mott Street, New York City.

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RULES AND REGULATIONS

OF THE

HEALTH DEPARTMENT OF THE CITY OF NEW YORK.

Meetings.

1. The regular meetings of the Board of Health of the Health Department shall be held on Tuesday and Friday in each week, at two o'clock P. M., unless otherwise ordered.

2. Special meetings may be called at any time by the Secretary, when requested by the President, or a majority of the members, specifying the object of the meeting, and also a special meeting may be held at any time when all the Commissioners are present, with or without previous notice of the object of the meeting. At such special meetings no ordinance or regulation shall be made, repealed, or changed; no officer, clerk, or agent shall be dismissed, employed, or have his term extended, or his compensation diminished or increased; no final order (under the first clause of section 14, chapter 74, Laws of 1866, relating to orders), or order of arrest shall be made; no money or compensation exceeding two hundred and fifty dollars shall be voted or allowed, and no action shall be taken upon any measure or matter touching the general policy or duty of the Board, or of its officers, except to refer the same to the next meeting of the Board, unless all members are present.

3. No notice shall be required for meetings referred to in section one, but three hours' notice of special meetings shall be given personally, or left at such place as the members may severally designate. Two hours' notice by telegraph given by the President or the Secretary, addressed to the residences of the Commissioners, of a call to a special meeting, shall be in lieu of any other notice.

Committees.

4. The Standing Committee of the Board shall be four in number, and all the members of the Board shall be members of each Standing Committee. Two members of any committee (except the Committee on Applications, of which it shall be necessary to have three to constitute a quorum) shall constitute a quorum for the transaction of business.

5. The Standing Committees shall be as follows:

(1) The Finance Committee, of which the President shall be chairman.

(2) The Sanitary Committee, of which the Commissioner of Health, who is a physician, shall be chairman.

(3) The Committee on Applications, of which the Health Officer of the Port shall be chairman.

(4) The Committee on Law and Ordinances, of which the President of the Board of Police shall be chairman.

6. To the Committee on Finance shall be referred all questions in respect to expenses and salaries, and the procuring of supplies; and it shall audit all bills and accounts, and report the same in detail monthly; and shall have supervision of the office of the Secretary and the Attorney.

7. To the Sanitary Committee shall be referred all subjects of a scientific or medical nature, and it shall have supervision of the Sanitary Bureau and Bureau of Vital Statistics.

8. To the Committee on Applications shall be referred all applications for positions under the Board. Said Committee shall examine each applicant in regard to the special duties to be performed, and report the result in writing.

9. To the Committee on Law and Ordinances shall be referred all matters and subjects of law and ordinances, and it shall have direction of all examinations or hearings, and, in conjunction with the Attorney of the Board, have charge of all suits and litigations.

10. It shall also be the duty of the Finance and Sanitary Committees to examine and report upon all cases of remissness in the performance of duty by any officer or clerk upon complaint of the Secretary and Attorney, or the Chiefs of Bureaus respectively, and all cases in which any such officer or clerk has been guilty of any conduct that they may think impairs his usefulness in the service of the Board, and on all changes and transfers they think would promote economy or efficiency in the Department.

11. Special Committees may be appointed on any subject by the President, when so ordered by the Board, to consist of one or more members of the Board.

Order of Business.

12. The following shall be the order of business at meetings of the Board:

1. Reading of minutes.
2. Reports from attorney.
3. Reports of standing committees.
4. Report of special committees.
5. Communications from Chiefs of Bureaus.
6. Communications from the Board of Police.
7. Communications from all other sources.
8. Resolutions and orders.
9. Unfinished business.
10. New business.

Resolutions.

13. All resolutions shall be submitted in writing.

Appointments and Transfers.

14. No appointment or transfer of any clerk or subordinate shall be made, except by the Board.

Neglect of Duty.

15. Chiefs of Bureaus and the Secretary and Attorney shall report to the chairman of the Sanitary and Finance Committees respectively all cases of remissness or neglect in the performance of duty by any of their subordinates, and all cases in which any officer or clerk has been guilty of any conduct that they may think impairs his usefulness in the service of the Board, and on all changes they think would promote economy or efficiency in the respective departments.

Office Hours.

16. All subordinates, whose duties are at the offices of the Board, shall be required to be on duty from 9 A. M. to 4 P. M.

17. The chief officers of each Bureau, and the Sanitary Inspectors, and Assistant Sanitary Inspectors, shall be considered always on duty.

Leave of Absence.

18. Leave of absence may be granted by the President to any officer or employé of the Board for a period not to exceed four days, but the same must be in writing, filed with the Secretary, and reported at the next meeting of the Board. The applications of clerks, inspectors, and employés, for leave of absence, must be in writing, and approved by their superior officers respectively.

19. Chiefs of Bureaus and the Secretary and Attorney shall report to the President all absences of their subordinates, and every absence from the office of the Board, without leave, of any clerk, between the hours of 9 A. M. and 4 P. M., with the length and cause of such absence.

Officers to take Oath.

20. All officers and clerks appointed by this Board shall take the constitutional oath of office.

Authentication.

21. Except in the cases where a different mode of authentication is required by the rules or regulations of this Board, or by law, all orders made, or that may be made, by this Board, may be authenticated by adding to a copy of such order the words "a true copy," and by the signature thereunder of the name of the Secretary of this Board by such Secretary, or the name of the Chief Clerk by such Chief Clerk.

Expenditures.

22. No expense shall be incurred by any officer or employé of this Board, without an order of the Board, or the written approval of the chairman and one other member of the Finance Committee, and until the same has been entered upon the books of the Secretary, and a written order issued therefor.

23. Pay-rolls of the officers and employés of this Department shall be prepared monthly by the Secretary, and, when approved by the Board, shall be forwarded to the Comptroller.

24. All necessary supplies for this Department shall when duly ordered be purchased under the direction of the chairman of the Finance Committee, and as far as possible by contract.

Reports.

25. The chief officer of each Bureau shall report to the Board in writing, through the office of the Secretary; and all reports and communications shall be delivered to the Secre-

tary before 12 o'clock noon of the days of the regular meetings, and all weekly reports before 12 o'clock noon of Tuesday of each week. The Secretary shall forward to the chairmen of the respective Committees, all communications referred by the Board, and they shall indorse thereon the approval, disapproval, or recommendation of said Committees respectively, and present them to the Board at the next regular meeting. The Attorney shall report direct to the Board. All clerks in the office of the Secretary shall be under his direction.

26. Before any order be made under the 14th section of chapter 74, Laws of 1866, the report or reports, on which the same is to be founded, shall be sworn to by the persons making the same.

Hearings.

27. The power of the President to suspend the execution of an order shall only extend to its suspension until the next meeting of the Board, when every suspension since the last meeting shall be by him reported to the Board and entered on its minutes. No suspension shall be of any effect unless the same be in writing upon the order suspended, and a note of such suspension shall be at the same time entered upon the record of such order in the books of the Board.

In all proceedings under the 1st subdivision of section 14 of chapter 74, of the Laws of 1866, where the person or persons served, or intended to be served, with the order made thereunder, shall, within the time limited, apply to the Board, or to the President thereof, to have said order, or its execution, stayed or modified, the following proceedings shall be had, save in cases of imminent danger from impending pestilence. The person or persons so applying shall, unless the Board otherwise direct, appear, and make their proofs before such officers as in any given case the Board may direct, and *the said* officers are hereby appointed persons, and authorized

to take, any and all proofs, affidavits, and examinations, as to any matters under Chapter 74 of the Laws of 1866. Such appearance shall be at the office of the Board, at No. 301 Mott Street, New York, at such hour and day as the Board may direct; the applicant shall produce his witnesses, and there, orally and under oath, present the facts and proofs against the declaration on which the order was made, and against the execution of said order, or in favor of its modification, and shall have a full and fair opportunity so to do.

The presentation of such facts and proofs shall be continued without needless interruption or delay, and shall be completed, if possible, within one day from its commencement.

After such facts and proofs on behalf of the said person or persons have been completed, the other facts and proofs may be presented in the same manner, in favor of said declaration and order and its execution.

Any witnesses may be presented, examined, and cross-examined, for or against such declaration and order and its execution or modification, subject to the reasonable direction of the person appointed and authorized by the Board to take the proofs, affidavits, and examinations in the case. After all of such facts and proofs shall have been presented, the same shall be returned to the Board, and the case shall be considered at the next regular meeting of the Board, unless the Board shall appoint a different time therefor. At such meeting one counsel may be heard on behalf of said person or persons, but not to exceed thirty minutes, unless, in particular cases, the Board shall permit a more protracted argument.

Permits.

28. All applications for permits under the hereinafter designated sections of the "Sanitary Code" shall be made to the Sanitary Superintendent, who shall forthwith cause inspection to be made of the business matter or thing for which

a permit is sought, the name, residence, and fitness of the applicant, and shall return the said application, with his report or the report of a Sanitary Inspector, at the next regular meeting of the Board. The following are the sections of the Code herein referred to, viz.: 50, 52, 53, 56, 59, 60, 62, 71, 76, 79, 80, 82, 83, 104, 112, 118, 119, 130.

29. All permits granted under the orders of the Board for the business matters or things mentioned in the foregoing sections of the said Code, shall be issued by the Secretary, who shall keep a record of all permits granted and of all applications for permits in cases where permits have been refused, including the name and residence of each applicant, the date of the application, the business or matter or thing for which a permit is asked, and the action of the Board, if any, thereon, and such other facts as may be necessary to a complete record of each application.

30. The Sanitary Superintendent is authorized to issue permits under sections 94, 100, 101, 102, 112, 141, 142 of the Sanitary Code, and shall keep a proper record of such permits.

31. Permits may be granted by the Sanitary Superintendent for the removal of stable-manure and stable-straw between the hours of 8 A. M. and 6 P. M., provided the loading of the carts is done within the premises or in the enclosed yard, and provided that each and every cart so loaded shall be closely covered with a proper canvas cover, and the name of the owner or owners of said carts shall be placed conspicuously thereon, and provided that all the manure be removed daily from each stable, except those in which the accumulation does not amount to one load daily, in which case the stables are to be thoroughly cleaned at least once in each week.

32. All permits required or authorized by the Sanitary Code or otherwise, unless authorized to be given by some officer, must be expressly authorized by the Board, and shall be countersigned by the Secretary or Chief Clerk.

33. Persons desirous of procuring a permit to slaughter animals at any place where slaughtering is not carried on, shall advertise in three daily morning journals, twice a week for two weeks, their intention of applying to the Board of Health for a permit at a specified time, giving in said advertisement the location proposed.

34. No vessel or ship arriving at the Port of New York with emigrant passengers on board, or arriving at said port from a place where disease, subject to quarantine, existed at the time of the departure of said ship or vessel, or which shall have arrived at any such place and proceeded thence to New York, shall receive a permit from the Health Department to come to the docks of New York, until the Sanitary Superintendent shall, in person or by a Sanitary Inspector, have boarded said ship or vessel, and examined carefully every person on board, and become satisfied, from such examination, that there is no person on board of said ship or vessel having any contagious or infectious disease, which might be communicated to any other person or persons.

Sanitary Superintendent.

35. The chief officer of the Sanitary Bureau shall be called "The Sanitary Superintendent."

36. The "Sanitary Superintendent" and his assistants shall severally devote their entire time to the service of the Board; they shall be in attendance at the office of the Board each day during the designated official hours of this Board (9 o'clock A. M. to 4 P. M.), unless absent on duties pertaining to their offices, and they shall hold no other office, nor any place of profit or emolument, without the express permission of the Board.

37. All complaints, except as otherwise ordained herein, not requiring immediate action of the Board, shall be referred to the Sanitary Superintendent for investigation, and he shall report upon the same to this Board.

38. When an order shall be, or shall have been made to remedy any complaint in the case of an overflowing or leaking privy, or of water in the cellar of an inhabited house, or of a collection of garbage and manure, or of cellars foul with decaying or other unhealthy matter, and when it shall appear by the reinspection report of a Sanitary Inspector or Assistant Sanitary Inspector of the Board, that the order has not been complied with, the Sanitary Superintendent may, in his discretion, transmit the order with the papers to the Attorney, with a recommendation that the order be executed by the Board; and in every such case the Attorney shall report to the Board his opinion as to whether the service of the order has been such that the Board will have a legal right to recover any money expended by it, in the execution of the order.

39. The Sanitary Superintendent shall issue the permits required by sections 94, 100, 101, 102, 112, 141 and 142 of the Sanitary Code.

40. The Sanitary Superintendent may, by and with the assent of the chairman of the Sanitary Committee, issue permits in the name of this Board for the landing and storage of rags, if the same are in compressed bales, closely covered with bagging, and tightly bound with iron hoops or with rope, and provided said bales are not opened or to be opened in this city.

41. The Sanitary Superintendent shall report to this Board for its action the name and position, with the facts as to danger to health therefrom, and the names of the owners and consignees of any vessel that shall come within less than (300) three hundred feet of any dock or pier, without first having obtained a permit from the Board.

42. The Sanitary Superintendent shall present a monthly tabulated statement to the Board of all orders modified, suspended, or delayed, during the month, together with the causes for such modification, suspension, or delay.

Burials.

43. Permits for the removal of the body of any deceased person from the City of New York for interment, and all burial permits, and permits for the disinterment of the remains of deceased persons in the City of New York, shall be granted and signed by the chief officer of the Bureau of Vital Statistics, under such directions as he may receive from time to time from the Board.

44. Burials are prohibited in the city of New York south of One Hundred and Thirtieth street, but from November 1st to the 1st of May, vaults south of the said limit may be opened for the temporary deposit of any dead body if a permit shall have first been obtained from the Bureau of Vital Statistics, and approved by the Sanitary Superintendent. In special cases arising under this rule special applications may be made to the Register of Records and the Sanitary Superintendant, who shall in their discretion grant special permits.

Bureau of Vital Statistics.

45. The chief officer of the Bureau of Vital Statistics shall be called "The Register of Records," and shall, under the Secretary of the Board, have charge of the records and papers of this Board relating to the registration of births, marriages, and deaths, in the City of New York, and shall, except as herein otherwise provided, perform all the clerical duties required in respect thereto.

46. Any weekly list of deaths, or of deaths occurring in any designated period of time, which by any law or ordinance may be required to be published, shall be published under the direction of the Register of Records.

47. The Register of Records shall grant Burial and Transit Permits, at the office of this Board, to applicants therefor, from seven o'clock A. M. to nine o'clock P. M., on

week-days; and from nine o'clock A. M. until six o'clock P. M. on Sundays and legal holidays.

48. No information as to the records of births shall be furnished by any officer or clerk of this Board for publication; nor shall information as to the record of any marriage, when the publication thereof, in the opinion of the Register of Records, would not subserve any useful purpose, or be made with any laudable motive, be furnished for publication; and the Register of Records shall keep such care and oversight of his records as will prevent a violation of this regulation.

49. No alteration of the records of births, marriages, or deaths, or of any papers relating thereto, shall be made without the written order of the Board. No alteration whatsoever shall be made of the records of births, marriages, or deaths, which occurred previous to May 11, 1873, nor of the records of births, marriages, or deaths, which occur after that date, except to correct clerical errors.

Sanitary Inspectors.

50. The Sanitary Inspectors will keep constantly in mind the great good to society, and the scientific value of the knowledge expected to be gained by the present system of Health Police. It is desirable that they should take especial interest in all sanitary questions, and keep themselves informed of what is being done at home and abroad relative to the causes which affect health or disease.

51. They will be held to a strict accountability. They will be subject to the immediate control of the Sanitary Superintendent, obey orders with promptness, and relinquish the demands of private business, in order the better to observe the obligations imposed upon them by their office.

52. They shall present themselves at the office of the *Sanitary Superintendent* as often as is required by them, to

receive orders and to make reports; nor are they to consider that their duties are limited to the districts to which they may have been assigned, but that they are bound to leave their districts and to examine into complaints and sickness elsewhere, whenever the Sanitary Superintendent may deem it advisable thus to employ them. They are to watch over all cases of fever and small-pox, and, if the patients are removed, to follow them with proper supervision.

53. Any gross delinquency on the part of a Sanitary Inspector will justify the Sanitary Superintendent in suspending him from duty until action is taken by the Board, when the delinquent may be censured or dismissed.

54. All the forms for making reports must be filled up legibly and minutely, and any information added that will throw light on the subject under investigation.

55. They shall wear their badges prominently displayed when engaged in their official duties. On entering any house or premises they must announce their authority, and the object of their visit, and, while endeavoring to avoid giving offence, must make their investigations minutely.

56. If resistance is offered to the performance of their duties, they are at once to report the fact to the Sanitary Superintendent, and await instructions. They will likewise report all who violate the Health Laws, and Sanitary Code.

57. Whenever two Sanitary Inspectors shall report in writing that any person is sick of any contagious or infectious disease, under such circumstances that the continuance of such sick person in the place where he or she is, is dangerous to the lives of other persons residing in the neighborhood, the Sanitary Superintendent shall, if he has reason to believe there is ground for so doing, in some proper manner cause the removal of such sick person to Ward's Island Hospital, or to the hospitals under the charge of the Commissioners of Charities and Correction, as may be proper.

58. Sanitary Inspectors and Assistant Sanitary Inspectors shall conscientiously devote such time to the duties of

their offices as the Board or the Sanitary Superintendent may from time to time direct, and shall report weekly the duty performed on each successive day. They shall immediately and without delay, report upon all special cases referred to them, and shall in no case allow any business or employment to prevent such inspection and report; they shall hold no other office, nor place of profit or emolument, without the express permission of the Board, and shall be at all times at the call of the Sanitary Superintendent.

59. The Sanitary Superintendent shall add to his regular weekly report of the aggregate amount of duty performed by the Sanitary Inspectors and Assistant Sanitary Inspectors of the City of New York, a tabulated statement, giving the name of each Inspector, the limits of his district, the amount of duty performed by him on each successive day, and the character of the duty. Said tabulated statements shall be made up from the reports forwarded by the Sanitary Inspectors and Assistant Sanitary Inspectors, and from their statements, severally taken before the Sanitary Superintendent, and by him certified to as personally examined and found to be accurate, to the best of his knowledge and belief.

Engineer.

60. The Engineer shall have a general charge and responsibility in respect to the engineering duties of the Board. In all cases, where any matter requires the attention of an engineer, the same, with any papers relating thereto, shall be at once referred by the Sanitary Superintendent to the Engineer, and he shall report the full details as to what is needed in the several cases, including size and material, and the proper mode of construction, and the precise nature of repairs, the mode of ventilation to be adopted, and similar information proper in such cases.

Attorney.

61. The Attorney shall have a general supervision and

responsibility in regard to the legal business of the Board, and all suits shall be under his immediate supervision.

62. It shall be the duty of the Attorney and Counsel to take the proper measures for perfecting the lien for all expenses for which any person is liable, and has not paid within fifteen days after the same have become payable, or after final action, on any appeal in respect thereto, to any said officer, or to this Board. And he shall, in writing, inform the Secretary of the filing of all papers to secure a lien under any order; and shall institute such suits as the Board may order. And said Attorney shall, at the end of each month, make a report, in writing, to this Board, of all suits (giving the names of the defendants, and for what brought) instituted by him by direction of this Board; of all suits decided or settled; of the number and classes of suits and legal proceedings commenced against the Board since the last report, and of all moneys by him collected, of the dates of collection, and of the amounts, and the particulars thereof, by him paid out during the month. And at the end of each year he shall make a consolidated report of all suits and legal proceedings instituted by authority of this Board.

63. The Attorney of this Board, whenever ordered to bring suit against a physician or midwife for not reporting births, or against a clergyman for not reporting marriages, or against a physician for not reporting deaths as required by law, or the Sanitary Code; or against any person for violation of or not conforming to the provisions of the "Tenement House Act," shall, before commencing suit, notify such person that the Board has ordered that he be sued, and for what cause, and that any excuse he may wish to make, will be considered, if promptly presented.

64. In cases wherein the Attorney has been instructed to commence actions by this Department, for the recovery of the penalties established by law, against physicians who have failed to report the death of patients within the period and in the manner prescribed by Sections 160 and 161 of the

Sanitary Code, and it appears that the omission to comply with the requirements of such Ordinances was not intentional, no proceedings shall be taken without the further order of the Board.

65. The Attorney shall, for his salary, do all the legal business of the Board.

Execution of Orders, Judgments, Etc.

66. No order of the Board shall be suspended or modified by any of its officers, except as provided in Section 6, Chapter 686, Laws of 1866; such suspension and modification shall be granted only on recommendation of the Sanitary Superintendent.

67. The Engineer is authorized to audit, apportion, and certify accounts for work done under orders of this Board, which are a charge against the owners, part-owners, lessees, or tenants of the premises, or against the persons interested in the premises, or whose duty it was to do the thing ordered done.

68. An account shall be kept by the Secretary in the books of this Board, of the time and place of the execution of each order by, or under any person acting under, or in the employment of the Board; and in such account shall be entered the date of giving out the order for execution, the name of the Foreman, or person under whom the same was executed, and the expense and date of such execution, the date and amount of any bill for the expenses thereof (the same to bear the same number as the order), the date of rendering the same (or sending the same to the Finance Committee), and the amount and date of any collection, and whether by suit or otherwise. The bill shall be made out in the office of the Secretary, by the Auditing Clerk of the Board, and be by him entered, rendered and collected.

69. The Auditing Clerk shall record the date of receiving, and the amount of any such bill, of which a copy shall

be received from the Secretary, and the number of the order to which it relates. He shall cause the same to be duly rendered, and, so far as possible, to be speedily collected. The amounts and dates of all such collections, and from whom made, and of all reductions of any bill authorized by the regulations of this Board, and when and by whom made, shall also be recorded by the Auditing Clerk. He shall report monthly to the Finance Committee, who shall, after examination, forward the same to the Board: (1) the number and amount of all such bills received for collection during the past month; (2) the respective number of any bill that has been reduced, and the amount of such reduction, and by whom made; (3) the amount of all collections, and from whom, and on what bills, and how otherwise made, and the amount, and the number and date of bills rendered and remaining unpaid; and (4) what amounts, to whom, and on account of what orders, he advises that any and what sums should be paid for work done under any and what orders; (5) to what persons, at what date, and in what amount, he has made payment to any person by reason of work done in executing any and what orders, or other claim. But no payment aforesaid shall be made, save as authorized by a vote of this Board.

70. It shall be the duty of the Secretary of this Board to see that an affidavit be made, and filed in the form provided by this Board, and as intended by the 18th section of the 956th chapter of the Laws of 1867; and that there are therein stated, with fairness and accuracy, the expenses of such execution.

71. A like account in all respects shall also be kept relative to executing any judgment which may in like manner be executed.

72. When any such judgment or order shall relate to several lots or buildings belonging to different persons, and the same shall have been executed, and the expense of such execution ascertained, the Engineer shall justly apportion said expenses *to each lot* or building separately owned, and

against the owners thereof; and such officer shall, before making such apportionment, cause an affidavit to be made by "some person who took part in or had charge of such execution," which affidavit shall contain facts enabling him to make such apportionment, and the apportionment shall be made in the form approved by this Board.

73. Whenever any order of this Board shall have been executed, for which a claim for the reimbursement of the expenses thereof is to be made, it shall be the duty of the Auditing Clerk of this Board or the person having had charge of the execution thereof, to speedily render, or cause to be rendered, to the several persons of whom reimbursement is to be claimed (but nothing herein stated shall give such person any right to demand the same), a bill stating the expenses of such execution according to the facts. Such bill shall contain a printed heading which shall state: (1) that payment of such amount is required to be made to the Board (or some authorized person) within ten days of the date of such bill; (2) that, if the amount of such bill is claimed to be excessive, or the apportionment unfair, application may be made to the Sanitary Superintendent or Engineer of this Board, for a reduction of said bill within said ten days—Section 18, of Chapter 956, Laws, 1867—(3) that, in case of a failure to pay said amount (or as the same may be reduced), the parties responsible will be liable to suit for such amount (or reduced amount), and also for a penalty of fifty dollars in addition, by reason of having failed to fulfil the order under which such expenses were incurred; (4) that such expenses will be a lien on property and rent, all according to Section 6, subd. 7, and the Sections 13th and 18th, and other sections of the 956th chapter of the Laws of 1867, and the 74th and 686th chapter of the Laws of 1866; (5) that any party so complaining, if such officer do not adjust such amount or apportionment satisfactorily, may be heard before the next regular meeting of the Board of Health (of which such party must *take notice*), when the matter in dispute will be adjusted and

decided by said Board; that it shall be the duty of the officer before whom any such complaint concerning any bill or apportionment is made (as in these regulations authorized), if convinced himself of the fairness of such bill or apportionment, to satisfy the party complaining of the same of its fairness, and to advise present payment of such bills; but, in cases when he thinks it just or advisable, in order to secure such present payment, he may write, and shall state on the face thereof, and sign his name to a statement, that the same will be satisfied by the payment, within twenty-four hours thereafter, of the sum, in such writing to be named, reducing such apportionment or charge; but no reduction shall be valid if exceeding ten per cent. of the face of such bill or apportionment. And every reduction shall, by the officer making the same, be at once, in writing, stated to the Secretary, in order that the same may be noted on the records of the Board, and the Secretary shall enter the same in his books, and report such reduction to the next meeting of the Board. And no reduction shall be of any effect if payment be not made of the bill, as reduced, within twenty-four hours after such reduction. And if such officer fail to adjust such bill or apportionment on any complaint relating to any bill or apportionment, the party complaining may apply for a correction of any such bill or apportionment at the next regular meeting of this Board, of which he must take notice, when he can be fully heard, personally or by counsel, as to any complaint he may then and there make to the Board, and have justice done in the premises.

74. It shall be the duty of the Engineer of the Board to make the necessary arrangements, in accordance with these regulations, for the prompt execution of such orders as shall be transmitted to him for that purpose by the Sanitary Superintendent, to see that such contracts or arrangements are properly carried out, and to furnish to the Secretary all the facts and information needed to enable him to keep full records regarding the same. When orders are directed to be executed, those having reference simply to cleansing, white-

washing, disinfection, and minor repairs, may be executed by the Sanitary Superintendent directly; and those relating to scavenging, the Sanitary Superintendent may continue to execute through the agency of the Captain of the Sanitary Company of Police.

75. Whenever any arrangement or contract shall be made (and none can be made on any subject by any officer or officers, or committee, except pursuant to the express authority of the Board), with any person for the execution of any judgment or order, or for doing any work or incurring any expense, which is a charge upon those whose duty it was to do the thing ordered, the same, or a memorandum thereof, shall be made in writing, and signed by the contracting party, and a copy of the 67th and 68th sections of these regulations shall be attached thereto; and shall be deemed a part of every such contract, memorandum, and agreement. Every contracting party shall take notice of the following general conditions of contracts made with this Board, and have a copy thereof given to him by the Secretary:

(1.) That all prices and charges shall be fair and reasonable, and the work shall be well done, and the material used shall be good.

(2.) That all work and examination shall be promptly and regularly proceeded with, and shall be allowed to give no unnecessary trouble to parties affected thereby.

(3.) That neither the Board, nor the Health Department, will be responsible, as the principal or otherwise, for or on account of any such contractor, or his employés, as being their principals or otherwise.

(4.) That the prices and compensation for all work and material will be subject to the same apportionment, adjustment, and appeal, as said regulations provide for when such work may be done, or material furnished by the Board, or under its officers.

(5.) That the execution of the work will be subject to the *supervision* and reasonable directions of the Engineer and *Sanitary Superintendent* of this Board, and at any stage of

such execution the same may be suspended by order of the Sanitary Superintendent.

(6.) That the contractor shall make like affidavits (save as the Board may direct them modified), as is provided for in these regulations; and bills for his work shall be rendered by the Auditing Clerk, as they may be properly made up by the Secretary, as herein provided as to other bills.

(7.) That in case suits become necessary to collect bills, the Board will have its option to assume and pay the proper bills, or to assign the claims for penalties to the contractors.

(8.) That in no event will the Board or the Health Department be liable to pay any bill, save as any contract specially approved by the Board shall specifically provide.

76. The Sanitary Superintendent shall, once in each month, make a written report of all orders executed during the past month; and the engineer, and every officer under whom any work shall have been done, shall prepare and forward to the Sanitary Superintendent, for transmittal to the Board, monthly returns, giving the number of each order executed, the premises to which said orders respectively refer, and, in each case, the character of the work done, the number and names of the men employed, the materials used, and the expense involved, and such other details as may in any case be of importance.

77. The Sanitary Superintendent shall make a weekly report of any orders executed under his direction, stating the street and number, and, when known, the owner and occupant of the premises to which said order related, and of what the execution thereof consisted, and the date of such execution.

78. It shall be the duty of the Sanitary Superintendent to cause a correct account to be kept, and made up, and sworn to, of the expense of executing said orders respectively, and the same shall be filed with the other papers relating to said respective orders; a duplicate of said account of expenses shall be furnished the Auditing Clerk, who shall promptly demand *payment of such* expenses of the proper parties.

Disinfecting Corps.

79 The organization of this Corps shall be as follows:

1. The chief of the Disinfecting Corps, under the direction of the Sanitary Superintendent, shall oversee all work, and keep accurate accounts of the labor done by each employé, and the date and place of doing the same.

2. The roll shall be called every morning before commencing work, and every evening after the day's labor is finished, and the chief of the Disinfecting Corps shall be present on these occasions, and note and record who was present.

3. On pay-days, the amount of money required shall be made known and certified, in writing, by the Chief of the Disinfecting Corps to the Secretary of the Board.

Board of Police of the Police Department of the City of New York.

80. The Board of Police is requested to execute and enforce the orders of the Health Department, in relation to cleanliness and the preservation of life and health, through such of its officers and organizations as shall be selected by said Board of Police.

81. The Board of Police is hereby required to execute each and all orders made, and that may be made by this Board, under Section 14 of Chapter 74 of the Laws of 1866, or laws amending the same, and to serve each and every notice required by said act to be served as preliminary to the execution of, or in part execution of, every and all of such orders.

82. The Board of Police is requested to aid in enforcing the provisions of the Sanitary Code, as they now stand or may be hereafter amended, and to cause the attention of patrolmen to be called to its provisions.

83. The Captain of the Sanitary Company of Police is

hereby authorized, under the direction of the Board of Police, and by means of the police force of his Company, to make inspection and investigation of, and in relation to, any and all matters enumerated in Section 14 of Chapter 74 of the Sessions Laws of 1866, and report daily, for the information and action of this Board, any and all of such matters as are in a condition detrimental to life or health, with the location thereof, and the names of the owners, occupants, lessees, and tenants, so far as the same can be ascertained.

84. The Board of Police is requested to direct that all reports of nuisances emanating from their offices be made on the blank form provided by the Sanitary Superintendent.

85. In cases where the orders of the Health Department, or its authorized officers, shall be performed or executed by the Board of Police, or any of its officers, or members of the police force, the Health Department will be responsible to defend and save harmless said Board of Police, its officers, and members of the force, from all pecuniary responsibility, damages, costs, and expenses.

Amendments.

86. These regulations shall not be altered, nor shall any of them be repealed, nor any new regulation be made, unless pursuant to a notice of a motion for a new regulation or to alter or repeal, entered on the minutes at some prior regular adjourned meeting, or at some regular meeting of the Board.

THE SANITARY CODE.

The Sanitary Ordinances adopted by the Department of Health, called the Sanitary Code, and conformed to Article XI. of Chapter 335, of the Laws of 1873, by the Board of Health, June 2, 1873, with the amendments and additional provisions pursuant to Section 82 of said article, added and published to June 1, 1874.

Definitions of Terms.

Section 1. That the terms "Board," "this Board," and "said Board," shall be held to mean the "Board of Health of the Health Department of the City of New York;" that the word "Department," wherever used herein, shall be held to mean the Health Department of the City of New York; that the words "person," "owner," "tenant," "lessee," "occupant," "contractor," "party," "manager," "Board," and "officer," shall respectively be held to apply to and include, both jointly and severally, each and all owners, part owners, tenants, lessees, occupants, managers, contractors, parties in interest, persons, officers, boards, and corporations, who may sustain the relations, or may be in like position of any one or more thereof referred to in any ordinance or regulation; that every order, ordinance, or regulation declared applicable to the built-up portion of New York, shall, so far as the subject-matter thereof is applicable (save as

to interments), and so far as this Board has authority to make the same, be held to include and apply to the built-up portions of said city; that every word or phrase anywhere herein defined shall be held to include the same sense wherever used; that the words "city," or "this city," or "said city," whenever used herein, shall be held to mean the City of New York; that the word "regulations" shall be held to include "special regulations" (which latter will be from time to time issued, and will contain more detailed provisions than can be herein conveniently set forth); that the word "permit" shall be construed to mean the permission in writing of this Board, issued according to its by-laws, rules, regulations, and Sanitary Code; and that every "report" herein required shall be held to be a report in writing, signed by the person (and indicating his official position) who makes the same; that the word "light," or "lighted," shall be held to refer to natural, external light; and that all words and phrases herein defined shall also include their usual and natural meanings, as well as those herein especially given.

SEC. 2. That the word "street," when used in the Sanitary Code, shall be held to include avenues, sidewalks, gutters, and public alleys; and the words "public place" shall be held to include parks, piers, docks, and wharves, and water and open spaces thereto adjacent, and also public yards, grounds, and areas, and all open spaces between buildings and streets, and in view of such streets; the word "ashes" shall be held to include cinders, coal, and everything that usually remains after fires; the word "rubbish" shall be held to include all the loose and decayed material and dirt-like substance that attends use or decay, or which accumulates from building, storing, or cleaning; the word "garbage" shall be held to include every accumulation of both animal and vegetable matter, liquid or otherwise, that attends the preparation, decay, and dealing in or storage of meats, fish, fowl, birds, or vegetables; and the word "dirt" shall be held *to mean* natural soil, earth, and stone.

SEC. 3. That a "tenement-house" shall be taken to mean and include every house, building, or portion thereof which is rented, leased, let, or hired out to be occupied, or is occupied as the house, home, or residence of more than three families living independently of one another, and doing their cooking upon the premises, or by more than two families upon a floor, so living and cooking, but having a common right in the halls, stairways, yards, water-closets, or privies, or some of them. A "lodging-house" shall be taken to mean and include any house or building, or portion thereof, in which persons are harbored or received, or lodged for hire for a single night, or for less than a week at one time, or any part of which is let for any person to sleep in for any term less than a week. A "cellar" shall be taken to mean and include every basement or lower story of any building or house of which one half or more of the height from the floor to the ceiling is below the level of the street adjoining. The phrase "boarding-house" shall be held to include every building, and every story and portion thereof, which is at any time or usually used, leased, or occupied, or intended so to be, by any number of persons, exceeding ten, as boarders thereat. The word "manufactory" shall be held to include every building, and every story and portion thereof, in which any sort of labor or work is done, which calls for the continual or usual presence of several persons during several hours of the day or night engaged about said work or labor; and the word "saloon" shall be held to include every portion of any building in which the business of selling meals, liquors, drinks, or refreshments of any kind, shall be conducted, and includes "concert saloons."

SEC. 4. That the term "theatre" shall be held to include the building, rooms, and place where any play, concert, opera, circus, trick of jugglery, show, gymnastic, or other exhibition, masquerade, public dance, drill, lecture, address, or other public or frequent gathering or amusement, are, is, or may be held, given, performed, or take place, and the *approach or approaches to* and appurtenances thereof.

SEC. 5. That the word "physician" shall include dentists, and every other person who practises about the cure of the sick or injured, or who has the charge of, or professionally prescribes for, any person sick, injured, or diseased, and any person who pursues the business of, or acts as midwife; that the phrase "contagious disease" shall be held to include all persons sick, affected, or attacked by or of a disease of an infectious, contagious, or pestilential nature (more especially, however, referring to the cholera, yellow fever, small-pox, diphtheria, ship, or typhus, typhoid, spotted, relapsing, and scarlet fevers), and also including any new disease of an infectious, contagious, or pestilential nature, and also any other disease publicly declared by this Board dangerous to the public health; and every physician in said city shall at all times cause his or her name, office, and residence, and also his or her kind and class of practice, to be registered within the Bureau of Vital Statistics, and in a manner according to the regulations prescribed by this Board.

SEC. 6. That the word "meat," whenever herein used, includes every part of any land-animal and eggs (whether mixed or not with any other substance); and the word "fish" includes every part of any animal that lives in water, or the flesh of which is not meat; and the word "vegetable" includes every article of human consumption as food, which (not being meat, or fish, or milk) is held, or offered, or intended for sale or consumption, as food for human beings, at any place in said city; and all fish and meat found therein shall be deemed to be therein, and held for such sale or consumption as such food, unless the contrary be distinctly proved.

SEC. 7. That the word "cattle" shall be held to include all animals, except birds, fowl, and fish, of which any part of the body is used as food; the word "butcher" shall be held to include whoever is engaged in the business of keeping, *driving*, or slaughtering any cattle, or in selling any meat; *the words* "private market" shall include every store, cellar,

stand, and place (not being part of a public market) at which the business is the buying, selling, or keeping for sale, of meat, fish, or vegetables for human food.

Misfeasance and Nonfeasance.

Sec. 8. That no person shall carelessly or negligently do, or advise or contribute to the doing of any act or thing dangerous to the life, or detrimental to the health, of any human being; nor shall any person knowingly do, or advise, or contribute to the doing of any such act or thing (not actually authorized by law), except with justifiable motives and for adequate reasons; nor shall any person omit to do any act, or to take any precaution, reasonable and proper, to prevent or remove danger or detriment to the life or health of any human being.

Obedience to Ordinances and Regulations.

Sec. 9. That every contractor in these ordinances referred to, and every person who has contracted, or undertakes, or is bound to do, or is engaged in doing, any one of those things, in respect of which these ordinances contain provisions or regulations, shall comply with these ordinances, to the extent that any contract, obligation, or duty requires or permits; and no direction of any contractors or persons shall excuse him for a non-compliance with any of said ordinances.

Sec. 10. That every person shall observe and obey each and every special regulation, and every order of this Board that is or may be made, for carrying into effect any of the ordinances or powers hereinbefore or hereinafter contained, or any law of this State, or otherwise, whether issued directly by the Board, or promulgated by any Bureau charged therewith, as if the same had been herein inserted at length.

Enforcement of Ordinances.

Sec. 11. That the Inspectors of this Department, and its *proper officers and agents*, shall make the inspections and

aminations required by law; that the Board of Police of the City of New York do execute and cause to be executed all the orders of this Board when so specially ordered; and all persons are hereby forbidden to interfere with or obstruct such inspection, examination, or execution.

SEC. 12. That, except as herein specially or otherwise provided, or as may be hereafter provided, or as is otherwise made necessary by the laws of the State, the Board of Police of the Police Department shall, through its proper officers and men, and as near as may be according to its existing regulations, or amendments to be made thereto, on advice with this Department, and subject to the supervision of this Department, carry into effect and exercise the sanitary powers heretofore exercised by the Board of Police; and that said Board of Police shall keep this Department regularly advised of its action in that behalf, and shall conform to these and all future ordinances, and to all special regulations of this Department.

BILLS OF HEALTH.

SEC. 13. That no person, officer, or Board within said city (except this Board or its proper officers, or proper officers of any bureau of this Department, and as the regulations prescribed by this Board shall provide), shall grant, sign, or deliver any Certificate, or "Bill of Health."

MEDICINES, ADULTERATIONS, AND POISONS.

SEC. 14. That no doctor, druggist, or other person shall make, sell, put up, prepare, or administer any prescription, decoction, or medicine under any deceptive or fraudulent name, direction, or pretence; nor shall any false or deceptive representation be made by any person to any other as to the kind, quality, purpose, or effect of any such or other drug, medicine, decoction, drink, or other article offered or *intended to* be taken as food or medicine.

SEC. 15. That no poisonous medicine, decoction, or substance shall be held for sale or sold, except for lawful purposes and with proper motives, and by persons competent to give the proper directions and precautions as to the use thereof; nor shall any bottle, box, parcel, or receptacle thereof be delivered to any person unless the same is marked "poison," nor to any person who the party delivering the same has reason to think intends it for any illegal or improper use or purpose.

SEC. 16. That no person shall make, offer, or have for sale, or keep at any place of sale, any "poisonous, unwholesome, deleterious, or adulterated drugs, medicines, or food," or in respect thereto omit any act or thing required, or do any act forbidden by any law or health regulation of this State applicable in any part of said city.

CONSTRUCTION OF BUILDINGS, VENTILATION, AND DRAINAGE.

SEC. 17. That no person shall hereafter erect, or cause to be erected, or converted to a new purpose by alteration, any building or structure which, or any part of which, shall be inadequate or defective in respect to strength, ventilation, light, sewerage, or of any other usual, proper, or necessary provision or precaution; nor shall the builder, lessee, tenant, or occupant of any such or of any other building or structure (within the right or ability of either to remedy or prevent the same), cause or allow any matter or thing to be or to be done in or about any such building or structure dangerous or prejudicial to life or health.

SEC. 18. That no owner or lessee of any building, or any part thereof, shall lease or let, or hire out the same, or any portion thereof, to be occupied by any person, or allow the same to be occupied as a place in which or for any one to dwell or lodge, except when said buildings or such parts thereof are sufficiently lighted, ventilated, provided, and accommodated, and are in all respects in that condition of *cleanliness and wholesomeness*, for which this Code or any law

this State provides, or in which they or either of them require any such premises to be kept. Nor shall any such person rent, let, hire out, or allow, having power to prevent the same, to be used as or for a place of sleeping or residence, any portion or apartment of any building which apartment or portion has not at least two feet of its height and space above the level of every part of the sidewalk and curbstone of any adjacent street, nor of which the floor is damp by reason of water from the ground, or which is impregnated or penetrated by any offensive gas, smell, or exhalation prejudicial to health. But this section shall not prevent the leasing, renting, or occupancy of cellars or rooms less elevated than aforesaid, and as a part of any building rented or let, when they are not let or intended to be occupied or used by any person as a sleeping apartment, or as a principal or sole dwelling apartment.

SEC. 19. That no person, having the right and power to prevent the same, shall knowingly cause or permit any person to sleep or remain in any cellar, or in any place dangerous or prejudicial to life or health, by reason of a want of ventilation or drainage, or by reason of the presence of any poisonous, noxious, or offensive substance or otherwise.

SEC. 20. That no owner, lessee, or keeper of any tenement-house, lodging-house, boarding-house, or manufactory shall cause or allow the same to be overcrowded, or cause or allow so great a number of persons to dwell, be, or sleep in any such house, or any portion thereof, as thereby to cause any danger or detriment to life or health.

SEC. 21. That no person, being the lessee, manager, conductor, or owner of any theatre, shall cause, or permit, or allow the same, or any part or appurtenance thereof, to be so far overcrowded, or inadequate, faulty, or insufficient, in respect of strength, ingress or egress, cleanliness, ventilation, or in any other particular, as that thereby, or by reason thereof, any avoidable peril shall come or happen to, or be incurred or suffered by any person being properly at or in any such theatre.

SEC. 22. That every person who shall be the owner, lessee, or keeper or manager of any tenement-house, boarding-house, lodging-house or manufactory, shall provide, or cause to be provided for the accommodation thereof, and for the use of the tenants, lodgers, boarders, and workers thereat, adequate privies or water-closets, and the same shall be so adequately ventilated, and shall at all times be kept in such cleanly and wholesome condition as not to be offensive, or be dangerous or detrimental to life or health. And no offensive smell or gases, from or through any outlet or sewer, or through any such privy or water-closet, shall be allowed, by any person aforesaid, to pass into such house or any part thereof, or into any other house or building.

SEC. 23. That every owner, lessee, and tenant and manager of any boarding-house or manufactory, shall cause every part thereof and its appurtenances to be put, and shall thereafter cause the same to be kept, in a cleanly and wholesome condition, and shall speedily cause every department thereof in which any person may sleep, dwell, or work, to be adequately lighted and ventilated; and, if the same be a manufactory, shall cause every part thereof in which any person may work to be maintained at such temperature, and be provided with such accommodations and safeguards as not, by reason of the want thereof, or of anything about the condition of any such manufactory or its appurtenances, to cause unnecessary danger or detriment to the life or health of any person being properly therein or thereat.

SEC. 24. That no keeper, or other officer or person having control or authority in any jail, prison, or other place where any person may be kept or confined, shall needlessly or illegally cause or allow any peril or detriment to the life or health of any such person, by reason of too little or too much heat, or of a want of food, drink, or ventilation, or from the want or neglect of any other reasonable care, protection, or precaution.

SEC. 25. That every person, when cleaning any street,

shall clean, and every contractor shall cause to be cleaned, the gutters and parts of the streets along which the water will run, before using any water to wash the same; and no substance that could be before scraped away shall be washed or allowed to be carried or be put into the sewer, or into any receptacle therewith connected.

SEC. 26. That it shall be the duty of every person using, making, or having any drain, soil-pipe, passage, or connection between any sewer (or with either the North or East River) and any ground, building, erection, or place of business, and in like manner the duty of the owner and tenant of all grounds, buildings, and erections, and of the parties interested in such place of business or the business thereat, and in like manner the duty of all boards, departments, officers, and persons (to the extent of the right and authority of each), to cause and require that such drain, soil-pipe, passage, and connection shall at all times be adequate for its purpose, and shall convey and allow freely and entirely to pass whatever enters or should enter the same.

SEC. 27. That it shall be the duty of all boards, departments, officers, and persons having power and authority so to do or require (and to the extent thereof), to cause to be used sufficient water, and other adequate means to be taken, so that whatever substances may enter any sewer shall pass speedily along and from the same, and sufficiently far into some water or proper reservoir, so that no accumulations shall take place, and no exhalations from thence proceed dangerous or prejudicial to life or health.

SEC. 28. That the proper officers and authorities shall, to the extent of their power and ability, cause the sewers and drainage of said city to be so well located and constructed, so adequate in size, and to be so kept in repair and cleaned, and so adequately supplied with water, and with such proper arrangements and constructions in every particular, that life and health shall not be needlessly exposed, or suffer unnecessary peril or detriment by their neglect, or by reason

of the defects or deficiencies of any sewers or drainage, or the want thereof.

FOOD AND DRINK.

SEC. 29. That no meat, fish, birds, or fowl, or vegetables, nor any milk, not being then healthy, fresh, sound, wholesome, and safe for human food, nor any meat or fish that died by disease or accident, shall be brought within said city, or offered or held for sale in any public or private market, as such food, anywhere in said city.

SEC. 30. That no calf, pig, or lamb, or the meat thereof, shall be brought, held, or offered for sale, as such food, in said city, which, at the date of its death (being a calf), was less than four weeks old; or (being a pig), was, when killed, not more than five weeks old; or (being a lamb), was, when killed, not more than eight weeks old. Nor shall any meagre, sickly, or unwholesome fish, birds, or fowl be bought, held, sold, or offered for sale, as such food, in said city.

SEC. 31. That no cattle shall be killed for human food while in an overheated, feverish, or diseased condition; and all such diseased cattle, in the City of New York, and the place where found, and their disease, shall be at once reported to this Department by the owner or custodian thereof, that the proper order may be made relative thereto, or for the removal thereof from said city.

SEC. 32. That no meat, or dead animal above the size of a rabbit, shall be taken to any public or private market for food until the same shall have fully cooled (and all blood shall have ceased dripping therefrom) after its killing, nor until the entrails, head (unless the same be skinned), hide, horns, and feet shall have been removed. Nor shall gut-fat, or any unwholesome or offensive matter or thing, be brought to or near any such market.

SEC. 33. That no person shall, in the built-up portion of the City of New York, or adjacent thereto, sell or have for

sale any fish in or from any vehicle or in any street or public place, from which all parts which are not usually cooked for food have not been removed.

SEC. 34. That no decayed or unwholesome vegetables shall knowingly be brought into said city to be consumed or offered for sale for human food, nor shall any such articles be kept or stored therein.

SEC. 35. That no person, being the manager or keeper of any saloon, boarding-house, or lodging-house, or being employed as a clerk, servant, or agent thereat, shall therein or thereat offer or have for food or drink, or to be eaten or drank, any poisonous, deleterious, or unwholesome substance, nor allow anything therein to be done or to occur dangerous to life or prejudicial to health.

SEC. 36. That no cased, blown, plaited, raised, stuffed, putrid, impure, or unhealthy or unwholesome meat or fish, birds or fowl, shall be held, bought, or sold, or offered for sale for human food, or held or kept in any market, public or private, or any public place in said city.

SEC. 37. That no meat, fish, vegetables, or milk, or unwholesome liquid, shall knowingly be bought, sold, held, offered for sale, labeled, or any representation made in respect thereof, under a false name or quality, or as being what the same is not, as respects wholesomeness, soundness, or safety for food or drink.

SEC. 38. That every person, being the owner, lessee, or occupant of any room, stall, or place where any meat, fish, or vegetables, designed or held for human food, shall be stored or kept, or shall be held or offered for sale, shall put and keep such room, stall, and place, and its appurtenances, in a cleanly and wholesome condition; and every person having charge, or interested or engaged, whether as principal or agent, in the care, or in respect to the custody or sale of any *meat, fish,* birds, fowl, or vegetables, designed for human *food, shall* put and preserve the same in a cleanly and whole-

some condition, and shall not allow the same, or any part thereof, to be poisoned, infected, or rendered unsafe or unwholesome for human food.

SEC. 39. That no butcher or dealer shall keep in any market any refrigerator or ice-box, unless the same shall be lined with lead or some proper metallic substance, so as to be water-tight, nor unless the same be provided with a pipe of lead, zinc, or copper leading therefrom to the nearest gutter or proper waste pipe.

SEC. 40. That it shall be the duty of every person knowing of any fish, meat, fowl, birds, or vegetables being bought, sold, or offered, or held for sale as food for human beings, or being in any market, public or private, in said city, and not being sound, healthy, or wholesome for such food, to forthwith report such facts, and the particulars relating thereto, to this Department, or to one of its officers or inspectors.

SEC. 41. That no person shall, without consent of this Department, bring into said city for use as a drink for human beings, or offer or have for sale in said city, as such drink, any poisonous or deleterious liquid.

SEC. 42. That upon any cattle, meat, birds, fowl, fish, or vegetables being found by any inspector or other officer of this Department, in a condition which is in his opinion unwholesome and unfit for use as human food, or in a condition or of a weight or quality in this Code condemned or forbidden, he shall cause the same to be examined by two reputable persons, reasonably competent to judge in respect thereto, whom he may conveniently find; and if both said persons disagree with him in opinion in respect thereto, he shall take no action, and give no order, relative to the same, till he has been instructed by the Sanitary Superintendent; and if one or both of said persons agree with him in respect to said articles, then such inspector or officer may forbid the same being offered or exposed for sale, or being sold, for human food, till the owner or party in charge or other proper per-

son has obtained the consent of the Sanitary Superintendent, or of this Board, to their being so offered, used, or sold. And if both such persons agree with him in opinion, he may order the same to be removed; and thereupon, or if this Board shall have approved the judgment of said inspector, it shall be the duty of the owner and party in charge to speedily remove such articles from any market, street, or public place, and not to sell or dispose or offer to sell or dispose thereof for the purpose of human food. And in default of such removal, and also in case of disobedience to such order, and also in all cases where, in his opinion, such articles, by reason of their being in a decayed or offensive condition, would, if allowed longer to remain, be dangerous to health, the same (as this Board may provide) may be caused to be removed by any inspector, police officer, or officer of this Department, to some suitable place, at the expense of the party who should have removed the same, and the owner and party in interest must take notice thereof.

SEC. 43. That no person shall sell or give to any other person or permit such other person to get (having the right and ability to prevent the same) any drink, when such first-named person may have reason to think or believe that such drink may cause danger or detriment to life.

SEC. 44. That no distiller, or brewer, or other person, shall manufacture, or have or keep for sale, any liquid designed as a drink or beverage for human beings which would be, if used, needlessly dangerous or detrimental to life or health.

SEC. 45. That no person shall have at any place where milk, butter, or cheese is kept for sale, nor at any place offer or have for sale, nor shall any person bring or send to said city, any unwholesome, watered, or adulterated milk, or milk known as swill-milk, or milk from cows or other animals that for the most part lived in stables, or that fed on swill, garbage, or other like substance; nor any butter or cheese made from any such milk, nor any unwholesome butter or cheese.

SEC. 46. That no person shall throw, or allow to run or pass, into any public reservoir, water-pipe, or aqueduct, or into or upon any border or margin thereof, or excavation or stream therewith connected, any animal, vegetable, or mineral substance whatever; nor shall any person allow the same to be done (having power or right to prevent the same); nor shall any person do or permit to be done (having right or power to prevent the same), any act or thing that will impair or peril the purity or wholesomeness of any water or other fluid used or designed as a drink in any part of said city, nor shall any person bathe (nor, except in the discharge of a public duty, put) any part of his person into such water; nor shall any unauthorized person open any erection or unscrew any hydrant holding such water.

SEC. 47. That it shall be the duty of every person, officer, department, and board, having any authority and control in regard to any water designed for human consumption (and within the proper sphere of the duty of each thereof), to take all usual and also all reasonable measures and precautions to secure and preserve the purity and wholesomeness of such water.

SEC. 48. That no person shall destroy nor in anywise injure or impair any drinking-hydrant, or part thereof, in the said city; nor shall any person interfere with the use or enjoyment of the water therein, or therefrom, or interrupt the flow thereof, for or as a drink; nor shall any person put any dirty, poisonous, medicinal, or any noxious substance into or near said water or hydrant, whereby such water is made or may be regarded as dangerous or unwholesome as a drink.

CATTLE, HORSES, ETC.

SEC. 49. That no cattle, sheep, horse, goat, goose, or mule, or any dangerous or offensive animal, shall be allowed by any owner, or by any person having charge of or who shall have charge of the same, to go at large in any street or pub-

lic place in the City of New York. And no pigs, swine, or cattle shall be unloaded from any cars upon any street or public place in the City of New York, except pursuant to a written permit from this Department.

SEC. 50. That no person shall allow any swine or goat to run at large in said city, and no person shall, within the built-up portions of said city, or within one thousand feet of any residence or place of business or street thereof, keep any swine or goat, without a permit so to do from this Department.

SEC. 51. That no cattle shall be kept in any place of which the water, ventilation, and food are not sufficient and wholesome for the preservation of their health, safe condition, and wholesomeness for food.

SEC. 52. That no person shall keep or allow to be kept in any building, or on any premises, or on grounds of which he may be the owner, lessee, tenant, or occupant, more cows or other cattle than at the rate of fifteen to an acre (in or near the built-up portions of said city), without a permit from this Department. And every such person shall cause every stable and place where any cows, horses, or other animals may be, to be kept at all times in a cleanly and wholesome condition, and shall not allow any animal to be therein, while infected with any disease contagious or pestilential among such animals, without a permit from this Department.

SEC. 53. That no cattle, swine, or sheep, geese, goats, or horses, shall be yarded within or adjacent to the built-up portions of the City of New York, without the permit of this Department, or otherwise than according to its regulations.

SEC. 54. That no cattle shall be placed or carried while bound or tied by their legs, or bound down by their necks, in any vehicle in said city, but shall be allowed freely to stand in such vehicle when transported, and while being *therein.*

SEC. 55.* That no cattle, swine, pigs, or calves shall be driven through the streets or avenues of the City of New York, or any of them, except between the hours of eight in the evening and two hours after sunrise of the next morning; nor shall any sheep be there driven except between the hours of eight o'clock in the evening and twelve o'clock, noon, of next day; nor shall more than twenty cattle, or more than one hundred and fifty hogs, or more than two hundred and fifty sheep or lambs, be driven together; and they shall be so driven only through the following streets, that is to say: Forty-fifth street from First to Second avenue; Sixtieth street, from Eighth avenue to Tenth avenue; the transverse road through Central Park at Seventy-ninth street; Ninety-second street, from Third avenue to Astoria Ferry; Ninety-fourth street, from Third to Fifth avenue; One Hundred and Tenth street, from Second to Eighth avenue; One hundred and Twenty-fifth street, from Eighth avenue to Manhattan street; First and Second avenues, in their entire lengths north of Fortieth steeet; Third avenue, between Ninety-second street and One Hundred and Tenth street; Fifth avenue between Seventy-ninth street and One Hundred and Tenth street; Eighth avenue, from Sixtieth street to McComb's Dam Road; McComb's Dam Road, in its entire length; Tenth avenue, from Fortieth street to Sixtieth street; Harlem Lane, from the intersection of One Hundred and Twenty-fifth street and Eighth avenue to the intersection of One Hundred and Tenth street and Sixth avenue; Eleventh avenue, from Forty-second street to Forty-ninth street; Fortieth and Forty-first streets, from the Hudson river to Tenth avenue; and Forty-fifth, Forty-sixth, Forty-seventh, Forty-eighth, and Forty-ninth streets, between Hudson river and Eleventh avenue.

After the first day of June, 1874, no cattle, sheep, swine, pigs, or calves shall be driven across the city between the Tenth and Second avenues south of Seventy-ninth street.

* As amended April 28, 1874.

It shall not be lawful to drive cattle, sheep, pigs, swine, or calves through any street or avenue south of Fortieth Street, nor to slaughter any cattle, sheep, pigs, swine, or calves south of said street; nor shall any such cattle, sheep, swine, pigs, or calves be allowed to pass upon or across any sidewalk, or to remain in the streets or avenues, except when being driven in accordance with this Sanitary Code.

Cattle arriving in the City of New York by cars or boats may be driven in accordance with this Code from the place of unloading, being north of Thirty-ninth Street, to any existing cattle-yard, through the streets and avenues designated, without limit as to number, provided they are accompanied by one attendant, if composed of twenty or any less number of head; by two attendants for more than twenty and less than fifty head; by three attendants for more than fifty and less than one hundred head; and by one attendant for every additional forty head above one hundred.

Such cattle and sheep as shall arrive within the Twenty-second and Thirtieth Police Precincts, as established by the Board of Police, by conveyances that, according to time-tables, should have arrived in season to be driven in conformity to this Code, but the actual arrival of which cattle or sheep has been delayed, without the wrongful act of the owners of the same (or of their agents), may be driven upon the routes hereinbefore designated, when they shall arrive, to any established yards above Fortieth street, upon obtaining a written permit for driving the same (out of the hours fixed by this Code, but otherwise in conformity thereto), at the police station-houses in said precincts respectively, under such regulations as the police authorities may provide.

Slaughtering and Slaughter-houses.

Sec. 56. That the keeping and slaughtering of all cattle, and the preparation and keeping of all meat and fish, birds *and fowl*, shall be in that manner which is, or is generally reputed or known to be, best adapted to secure and continue

their safety and wholesomeness as food. Neither the slaughtering nor the driving of cattle shall be permitted or conducted at any place in the City of New York south of Fortieth Street; nor shall the slaughtering of cattle be conducted at any place in the City of New York north of said street, without a special written permit from this Department.

SEC. 57. That every butcher and every person owning, leasing, or occupying any place, room, or building where any cattle have been, or are killed or dressed, and every person, being the owner, lessee, or occupant of any room, or stable where any cattle may be kept, or market, public or private, and, having power and authority so to do, shall cause such place, room, building, stall (and market, being private), and their yards and appurtenances to be thoroughly cleansed and purified, and all offal, blood, fat, garbage, refuse, and unwholesome or offensive matter to be therefrom removed, at least once in every twenty-four hours after the use thereof for any of the purposes herein referred to; and shall, also, at all times (unless some public authority prevents), keep all woodwork, save floors and counters, in any building, place, or premises aforesaid, thoroughly painted or whitewashed.

SEC. 58. That no cattle shall be slaughtered, dressed, or hung, or the meat or any part thereof, within said city, wholly or partly within any street, avenue, or sidewalk, or public alley or place; nor shall any blood, or dirty water, or other substance from such cattle, meat, or place of killing, or the appurtenances thereof, be allowed to run, fall, or to be in any such street, avenue, sidewalk, alley, or place.

SEC. 59. That no building occupied wholly or partly as a slaughter-house, or any part thereof, or any building on the same lot, shall, without a special permit from this Department, be occupied for a dwelling or lodging place; that every such building shall at all times be kept adequately and thoroughly ventilated; that no blood shall be allowed to remain therein over night; that adequate underground connec-

tions shall be made from every such building with a public sewer, and the floor of such building on which the slaughtering is done, and the yard, shall be cemented and paved so as not to absorb blood, and so as to carry all liquid into the sewers.

SEC. 60. That neither the business of slaughtering cattle, nor the keeping of any slaughter-house, nor the yarding of cattle, shall be begun or undertaken at any new or additional place within the City of New York, except pursuant to a permit from this Department; nor shall any person or corporation keep any slaughter-house or yard, or any cattle therein, hereafter, without a permit from this Department.

SEC. 61. That no person shall kill or dress any animal or meat in any market, nor have, or permit to escape therein, or within one hundred feet thereof, any poisonous, noxious, nauseous, or offensive substance.

SEC. 62. That no person shall become, or continue, or engage as, or in the business of, a butcher, at or in any public or private market or stand in the City of New York, without a permit therefor from this Department.

SEC. 63. That every butcher and milk dealer, and their agents, shall allow the parties authorized by this Department, to freely and fully inspect their cattle and meats, fish and vegetables, held, offered, or intended for sale, and will be expected to answer all reasonable and proper questions asked by such persons relative to the condition thereof, and of the places where such articles may be.

SEC. 64. That from and after the first day of December, 1870, the slaughtering of animals shall not be allowed or conducted at any place between Second (2d) Avenue and Tenth (10th) Avenue in the City of New York.

SEC. 65.* That no offal or butcher's refuse shall be conveyed *through* any street or avenue of the city of New York

* As amended May 5, 1874.

between the hours of 10 o'clock A. M., and 10 o'clock P. M., and that no offal, fat or refuse, shall, at any time, be brought into the city, or conveyed over any ferry, except in accordance with the terms of a written permit, first obtained therefor from this Department; nor shall any such substance be conveyed through any street or avenue, unless the same be in tight boxes, barrels, or vessels, and covered over so that no odor therefrom shall escape.

SIDEWALKS.

SEC. 66.* That no person engaged in the selling or keeping for sale of any fish, meat, birds, fowl, or vegetables, shall, without a permit from this Department, occupy or encroach upon any portion of any street or sidewalk, or public place in the City of New York.

SEC. 67. That no person being owner, lessee, or tenant of any house or building, shall allow any water or other liquid to run from or out of his building or ground, upon or across any sidewalk or curbstone, and if such substance is allowed to pass upon any street it must reach the same by a passage, to be kept at all times adequate and in repair by such person, under or through such flagstone or curbstone; and no such water or other liquid, or ice therefrom, shall be allowed to gather or remain on the upper surface of such curb, flagstone, or passage; nor shall such person allow any accumulation of such water or liquid, or the ice therefrom, upon any street or place, but shall, at all times, cause the same to be removed, or to pass along the gutter or some proper passage to one of the rivers or into a sewer.

SEC. 68. That every owner, lessee, tenant, and occupant of any building or lot in the built-up portions of the City of New York, shall, within two hours after the fall of any snow exceeding one inch in depth, and within two hours after the forming of any ice on the sidewalk or in the gutter, in front of or against the side of any such building or lot, remove, or

* As amended July 29, 1878.

cause the same to be removed, from such sidewalk and gutter, or in case of great difficulty in removing such ice, that every such person do sprinkle or cause to be sprinkled thereon sand or ashes, so that travelling thereon shall not be perilous; but that where said snow falls or ice forms between the hours of eight o'clock of the evening and daylight in the morning, this ordinance will be complied with by removing or sprinkling the same within two hours after sunrise of the morning succeeding its fall or formation.

SEC. 69. That every owner, tenant, lessee, and occupant of any building or lot (whether vacant or occupied), within or near the built-up portions of said city, shall keep and cause to be kept the sidewalk and flagging, and curbstone in front thereof, in good repair and condition; and that every such person shall keep and cause every such sidewalk to be kept free from obstructions, as well as also free from any incumbrance, and free from all substances of every kind.

SEC. 70. That no person shall take, or allow to go or be taken (having the right and ability to prevent the same), any horse or other animal, nor any vehicle, upon any sidewalk or footpath in front of any building, to the peril of any person; nor shall any person block up or obstruct any street or place, or contribute thereto.

POUNDS.

SEC. 71. That no person shall act as or be a keeper of any public pound in the City of New York, except pursuant to a permit from this Department.

SEC. 72. That no keeper of any such pound shall allow the same, or any animal therein, by reason of any want of care, food, ventilation, or cleanliness or otherwise, to be or become dangerous or detrimental to human life or health.

SEC. 73. That every such pound-keeper shall, from time to time, report to this Department, as its special regulations *may require*, and shall obey and conform to all such regulations; and that in the mean time such pounds shall, in the

particulars not herein mentioned, be regulated by the rules heretofore enacted by the proper authorities of said city.

Dogs, etc.

Sec. 74.* That no person shall take or call any dog into or allow any dog to go into, any street or public place, in the City of New York, between the fifteenth day of June and the fifteenth day of September in any year, unless properly muzzled, and nothing in this section shall repeal or supersede any existing regulations as to such dogs, not inconsistent herewith.

Sec. 75. That every animal which is mad or has the hydrophobia, or shows symptoms thereof, shall, by the person owning the same, or having the possession, charge, or control thereof, be at once killed; and every animal that has been exposed to such disease, shall be at once confined in some secure place for such length of time as to show that such exposure has not given such animal said disease, and so as to avoid all danger to life or health. And the dead body of any animal that died of such disease shall be at once, by such person, buried not less than three feet under ground, at some place not within one thousand feet of any residence.

Offensive Odors and Liquids.

Sec. 76. That no person shall permit or have any offensive water or other liquid or substance on his premises or grounds to the prejudice of life or health, whether for use in any trade or otherwise; and no establishment or place of business for tanning, skinning, or scouring, or for dressing hides or leather, or for carrying on any offensive or noisome trade or business, shall hereafter be opened, started, or established in the City of New York without a permit of this Board. And every such establishment now existing shall be kept cleanly and wholesome, and be so conducted in every particular as not to be offensive, or prejudicial to life or health.

SEC. 77. That no person or company being a manufacturer of gas, or engaged about the manufacture thereof, shall throw or deposit, or allow to run, or having the right or power to prevent the same, shall permit to be thrown or deposited into any public waters, river, or stream, or into any sewer therewith connected, or into any street or public place, any gas-tar, or any refuse matter of or from any gas-house, works, or manufactory; nor shall any such person or company allow any substance or odor to escape from such house, works, or manufactory, or make any gas of such ingredients or quality that any substance shall escape therefrom, or be formed in the process of burning any gas, which shall be offensive or dangerous, or prejudicial to life or health. Nor shall any such person or company fail to use the most approved or all reasonable means for preventing the escape of odors.

SEC. 78. That no water-closet, sink, tub, vat, or other structure shall hereafter be constructed within the City of New York, having connection with, or by any sewer or underground passage, unless the same is provided with adequate, or the best generally approved constructions and precautions for preventing gases and other offensive currents, substances or smells from passing up or out through such connection from such sewer or passage; nor shall any such water-closet or privy be constructed without adequate provisions for the effectual and proper ventilation and cleansing thereof.

SEC. 79. That no person shall boil any offal, swill, bones, or fat in the built-up portions of said city, save in ordinary cooking, nor shall the business of bone crushing, bone boiling, bone grinding, bone burning, shell burning, fat boiling, gut cleaning, nor the skinning or making of glue from any dead animals or parts thereof, nor any other occupation that is dangerous or detrimental to life or health, be hereafter established within said city; and no business or pursuit of *the kind* in this section named shall be carried on anywhere *in said city*, unless the same be allowed by a permit of this *Board*.

SEC. 80.* That no person shall boil, heat, dry, keep, store or manufacture any offal, swill, blood, bones, fat, tallow or lard, or any decaying animal or vegetable matter; nor shall the business of bone crushing, bone boiling, bone grinding, bone or shell burning, lime making, gut cleaning, skinning, or making glue from any part of dead animals, heating, drying, storing, shipping or transporting any blood, scrap, fat, grease, or offensive animal or vegetable matter or manufacturing materials for manure, be allowed or conducted in the city of New York, or in its waters, without a special permit from this Board, to be applied for in writing, specifying the nature and precise location of the proposed business.

SEC. 81. That all persons engaged in the business of boiling or rendering fat, lard, or animal matter, shall cause the scrap or residuum to be so dried or otherwise prepared as effectually to deprive such material of all offensive odors, and to preserve the same entirely inoffensive immediately after the removal thereof from the receptacles in which the rendering process may be conducted.

SEC. 82. That no person shall hereafter erect, start, or establish in said city, without the consent of this Board, any manufactory or place of business for boiling any varnish or oil, or for the distilling of any ardent or alcoholic spirits, or for making any lampblack, turpentine or tar, or for conducting any other business that will or does generate any unwholesome, offensive or deleterious gas, smoke, deposit, or exhalation, or any business that is or would be dangerous to life or detrimental to health.

SEC. 83. That no animal or vegetable substance, nor street-sweepings, muck, or silt, nor dirt gathered in cleaning yards, buildings, docks, or slips, nor waste of mills or factories, nor any materials which are offensive, or tend by decay to become putrid or to render the atmosphere impure or un-

* As amended August 26, 1873.

wholesome, shall be deposited or used to fill up or raise the surface or level of any lot, grounds, dock, wharf, or pier in or adjacent to the built-up portions of said city, or any ground filled for the purpose of building thereon, unless pursuant to a special permit from this Board.

SEC. 84. That no ground or material filled with offensive matter or substance, or that will emit or allow to arise, through or from the same, any offensive smell or deleterious exhalation, shall (adjacent to or within the built-up portion of said city) be opened or turned up, or the surface thereof removed, between the first day of May and the first day of October of any year, except according to permit first therefor obtained from this Board.

SEC. 85. That no petroleum oil, kerosene oil (or other liquid having like composition or qualities as a burning fluid as said oil), shall be kept or exposed or offered for sale as a burning fluid for lamps or any receptacle for the purpose of illumination, nor shall such oil or fluid or any description thereof be sold or kept or exposed or offered for sale, or given away for use or be used as a burning fluid for any such lamp or receptacle, or be kept for such use, unless such oil or fluid shall be of such quality and ingredients that it shall stand and be equal to the following test and conditions, to wit:

It shall not evolve an inflammable vapor at a tempera ture below one hundred (100) degrees of the Fahrenheit thermometer.

SEC. 86. That no fat, tallow, or lard shall be melted or rendered except when fresh from the slaughtered animal, and taken directly from the places of slaughter in the City of New York, and in a condition free from sourness and taint and all other cause of offence at the time of rendering, and that all melting and rendering are to be in steam-tight vessels, the gases and odors therefrom to be destroyed by combustion or other means equally effective, and according to *the best* and most improved means and processes; and every

thing preceding, following, and in connection with such melting and rendering, and the premises where the same shall be conducted, must be free from all offensive odor, and other cause of detriment to the public health. No fat, lard, or tallow shall be brought into the City of New York to be rendered or melted, and none is to be rendered or melted that has come from any place outside of said city, except as part of the living animal.

Filth—Dirt.

Sec. 87. That no part of the contents of or substances from any sink, privy, or cesspool, nor any manure, ashes, garbage, rubbish, or dirt, shall be by any person flung or allowed to run or drop into or remain in any street or public place, except as herein elsewhere specified; nor shall the same be thrown or allowed to fall or run into the North or East river, save through the proper underground connection.

Sec. 88. That no swill, brine, urine of animals or other offensive animal nuisance, nor any stinking, noxious liquid, or other filthy matter of any kind, shall by any person be allowed to run or fall from or out of any building, vehicle, or erection into or upon any street or public place, or be taken or put therein, save as herein elsewhere provided.

Sec. 89. That no butchers' offal or garbage, nor any dead animals, nor any putrid or stinking animal or vegetable matter, shall be thrown by any person or allowed to go into any street, place, sewer, or receiving-basin, or into any river or standing or running water or excavation, or upon any ground or premises in the built-up portions of said city.

Sec. 90. That no person shall draw off, or allow to run off into any ground, street, or place of said city, the contents (or any part thereof) of any vault, privy, cistern, cesspool, or sink; nor shall any owner, tenant, or occupant of any building to which any vault, sink, privy, or cesspool shall

appertain, or be attached, permit the contents, or any part thereof, to flow therefrom, or to rise within two feet of any part of the top, or permit said contents to become offensive; nor shall any privy, or other erection in this section mentioned, be filled with or covered with dirt till its filthy contents shall be emptied.

SEC. 91. That no person shall throw into, or deposit in any vault, sink, privy, or cesspool, any offal, ashes, meat, fish, garbage, or other substance, except that of which any such place is the appropriate receptacle.

SEC. 92. That neither the contents of any such tub, or of any receptacle, cesspool, privy, vault, sink, or water-closet, cistern, nor anything in any room, excavation, vat, building, premises, or place, shall be allowed to become a nuisance, or offensive, so as to be dangerous or prejudicial to life or health.

SEC. 93. That every tub or other receptacle in any necessary house, sink, or privy (or placed, or allowed to stand therein, by any owner, tenant, or occupant of any building, or premises), and used to contain any liquid or partially liquid substance, shall be sufficiently strong, perfectly tight, and adequately provided with a strong cover and with hoops and handles; shall not be allowed to be filled to within four inches of any part of the top, and shall not be allowed (or its contents) to be offensive. And the provisions of this Code relative to emptying cesspools, and to throwing any substance therein, shall apply to said tubs and receptacles as if here repeated and applied thereto.

And no person shall throw, drop, or allow to fall into the North or East river, or into any street or place, any substance being, or having been part of, the contents of any such vault, cesspool, privy, sink, tub, or receptacle, or any offal.

SEC. 94. That no person shall deposit upon any street or *public* place within the generally built-up portion of the City *of New York*, or upon any paved street, any dirt or brick,

or other material or dirt taken from any ground therein, in such manner as to occupy more than one hundred square feet of surface of any street or place (and the same shall be compact and at one side), nor allow the same to remain more than twelve hours, without a permit from this Department, or unless such occupancy shall be otherwise duly authorized by paramount authority. Nor shall any such substance be so deposited or allowed to remain by any person as to obstruct the free flowage along any gutter.

SEC. 95. That it shall be the duty of every owner, tenant, lessee, and occupant of any and every building or place of business in the generally built-up portions of the city of New York, forthwith to provide or cause to be provided, and at all times thereafter to keep and cause to be kept and provided, within such building or place of business, suitable and sufficient boxes, barrels, or tubs for receiving and holding, without leakage, and without being filled to within four inches of the top thereof, all the ashes, rubbish, garbage, and liquid substances, of whatever kind, that may accumulate during thirty-six hours from said building or place of business, or the portion thereof of which such person may be the owner, tenant, lessee, or occupant; and every such box, barrel, and tub designed to hold ashes shall be made of or lined with some suitable metal. That a separate vessel shall be provided for ashes and rubbish, and another for garbage and liquid substances; and ashes and rubbish shall not be placed or kept in the same vessels with garbage and liquid substances; and all ashes, rubbish, garbage, and liquid substances that should be removed from such building and place of business, or from that part for which said receptacles were provided, and none other (without the proper consent), shall be placed therein, and no such box, barrel, or tub shall remain on any sidewalk, or in any public place, longer than may be needful for the removal of the contents thereof.

SEC. 96. That such boxes, tubs, and barrels shall be placed and kept in such position (unless kept within or upon private grounds, within the sidewalks) as the inspectors or agents of this Department shall provide or the police direct; and no person, not for that purpose authorized, shall interfere therewith, or with the contents thereof.

SEC. 97. That all occupants, so preferring, may deliver their ashes, garbage, and rubbish directly to the proper carts, to be taken away at any hour of the day when said carts may be present; and said carts may take such articles from receptacles delivered at any such hour; provided, that such garbage or rubbish be not highly filthy or offensive; and in the latter case, the same shall not be so delivered or received during the period from seven o'clock A. M. of any day till ten o'clock of the evening of the same day.

SEC. 98.* That no lime, ashes, coal, dry sand, hair, feathers, or other substance that is in a similar manner liable to be blown by the wind, shall be sieved, or agitated, or exposed, nor shall any mat, carpet, or cloth, be shaken or beaten, nor any cloth, yarn, garment, or material, or substance, be scoured, cleaned, or hung, nor any business be conducted over, or any rags, damaged merchandise, wet, broken, or leaking casks, barrels, or boxes, or broken bales of merchandise, or goods, be placed, kept, or exposed for sale, in any street or public place, or where it, or particles therefrom, or set in motion thereby, will pass into any such street or public place, into any occupied premises. That neither any usual nor any reasonable precaution shall be omitted by any person to prevent fragments or other substances from falling, to the peril of life, or dust, or light material flying into any street, place, or building, from any building or erection, while the same is being altered, repaired, or demolished, or otherwise.

* As amended May 5, 1874.

SEC. 99. That every person who shall have paved, or caused to be paved, any street or place, shall cause all rubbish, dirt, and whatsoever else he has deposited, or allowed to be deposited on such pavement, to be removed from the several parts of such pavement within five days from the time of the same being deposited thereon. And every person who has removed any flagstone, curbstone, pavement-stone, or other stone, or dirt or iron in or from any street, sidewalk, or place, for the purpose of repairs, or for the purpose of paving, flagging, or curbing, or repairing, re-curbing, or re-flagging, or making any repairs or changes, or otherwise, shall cause the same or a proper substitute therefor to be placed or replaced and completed as soon as the same can reasonably be done.

SEC. 100. That every owner, lessee, tenant, and occupant of any stall, stable, or apartment in which any horse, cattle, or swine, or any other animal shall be kept, or of any place in which manure or any liquid discharge of such animals shall collect or accumulate, within the built-up portion of said city, shall cause said liquid and manure to be at once removed to some proper place, and shall at all times keep or cause to be kept such stalls, stables, and apartments, and the drainage, yard, and appurtenances thereof, in a cleanly and wholesome condition, so that no offensive smell detrimental to health shall be allowed to escape therefrom; and when within three hundred feet of any occupied dwelling-house, or of any manufactory where more than five persons are employed, the removals from the stable shall not be made, nor shall the manure or refuse from the stable be allowed to remain on any street or place near such stable, any time between eight o'clock A. M. and six o'clock P. M., without a permit from this Board. Every such stall, stable, or apartment, where horses or cattle are kept, shall have an underground and properly covered manure vault of not less than sixty-four cubic feet capacity. But the Sanitary Superintendent is authorized to issue permits to be regularly reported to this Board *regulating such* removal within said hours.

SEC. 101. That no person shall empty, or attempt to empty, any vault, sink, privy, or cesspool in the City of New York, except pursuant to a permit therefor first received from this Department.

SEC. 102. That from and after the first day of September, 1872, no part of the contents of any privy, vault, sink, cesspool, except substances other than excrements insoluble in water, or any accumulation of any offensive fluid, liquid, or semi-liquid substance or material, being in any excavation, cellar, or place, within the limits of the City of New York, shall be removed therefrom, nor shall the same be transported through any of the streets or avenues of said city, unless and except the same shall be removed and transported by means of an air-tight apparatus, or in such manner as shall prevent entirely the escape of any noxious or offensive odors therefrom, and by a permit from this Department.

SEC. 103. That the drivers of all carts for the removal of any garbage, offal, rubbish, or dirt from any building or premises, shall give adequate notice to those dwelling in any street whose buildings or premises such cart is about to or should approach for the removal of any substance aforesaid.

SEC. 104. That no person shall engage in the business of a scavenger, or of transporting manure, swill, ashes, offal, rubbish, or garbage, or any offensive or noxious substance, or in driving any cart for such purpose, in the City of New York (except the persons acting under the street-cleaning commissioners, or the contractors for cleaning the streets, and as this Department may provide), until he shall have first received a permit from this Department of such form and effect as the regulations of the Board shall provide, authorizing such person so to engage.

SEC. 105. That every cart and other vehicle hereafter constructed for or engaged about any business, or intended to be

loaded with any matter or substance in the last section mentioned, shall be constructed according to this Code, and to the regulations and orders of the Board of Health of the Health Department.

SEC. 106. That no cart or other vehicle for carrying any offal, swill, garbage, or rubbish, or the contents of any privy, vault, cesspool, or sink, or having upon it or in any thing on such cart any manure, or other nauseous or offensive substance, shall, without necessity therefor, stand or remain, nor shall a needless number gather before or near any building, place of business, or other premises where any person may be; nor shall any such cart or vehicle occupy an unreasonable length of time in loading or unloading, or in passing along any street or through any inhabited place or ground; nor shall any such cart or vehicle, or the driver thereof, or any thing thereto appertaining, be (or by any person having a right to control the same, be allowed to be) in a condition needlessly filthy or offensive; and when not in use, all such carts, vehicles, and all implements used in connection therewith, shall be stored and kept in some place where no needless offense shall be given to any of the people of said city.

SEC. 107. That all carts and vehicles in the last section mentioned, and boxes, tubs, and receptacles thereon, in which any substance in said section referred to may be or be carried, shall be strong and tight and the sides shall be so high above the load or contents that no part of such contents or load shall fall, leak, or spill therefrom; and that when, in the opinion of this Board, it is necessary to prevent the contents of such carts or vehicles, tubs or boxes, or receptacles from being offensive, each of such carts, tubs, and boxes, and receptacles shall be adequately and tightly covered, as the orders or regulations of this Department may provide or direct.

SEC. 108. That no driver of such cart or vehicle, nor any person having undertaken or being engaged about the load-

ing or unloading thereof, nor person engaged about the cleaning or emptying, or having undertaken to empty or remove any manure, garbage, offal, or the contents, of any vault, sink, privy, cesspool, or any noxious or offensive substance, shall do or permit to be done about the same, or in connection therewith, that which shall be needlessly offensive or filthy in respect to any person, street, place, building, or premises.

SEC. 109. That no person shall allow (and it shall be the duty of every contractor and person who has ordered or procured, or is having any of the following articles carried, or who is driving the same, to prevent) any cart or vehicle to be so fully loaded, or being in such bad condition of repair, or of such faulty construction, or being so improperly driven or managed, that any offensive liquid, or any manure, garbage, rubbish, offal, dirt, or material thereon, shall fall upon or in any place, street, or premises; and it shall be the duty of every such person to at once replace on such vehicle and remove what has so fallen.

SEC. 110. That all putrid or offensive matter, and all night-soil, and the contents of sinks, privies, vaults, and cesspools, and all noxious substances in the built-up portion of said city, shall, before their removal or exposure, be disinfected and rendered inoffensive by the owner, lessee, or occupant of the premises where the same may be, or (in default of the same being so done) by the person or contractor who removes or is about to remove the same; and for all such matter so disinfected and rendered inoffensive, the person (not being such tenant, owner, or occupant) who shall so disinfect and remove the same, shall be entitled to demand and receive a compensation, to be fixed by the Board of Health of the Health Department, not exceeding twelve cents per cubic foot for making such disinfection and removal, to be paid by such tenant, owner, or occupant.

SEC. 111. That neither the owner, tenant, nor occupant

of any building or premises, in the built-up portions of the City of New York, shall employ, cause, or permit any part of the contents of any vault, privy, sink, or cesspool (being thereon, and of which he has control) to be removed, unless according to a permit or the regulations of the said Department.

SEC. 112. That no pile or deposit of manure, offal, dirt or garbage, nor any accumulation of any offensive or nauseous substance, shall be made within the built-up portions of the City of New York, or upon any open space inclosed within any portions thereof, or upon the piers, docks, or bulkheads adjacent thereto, or upon any open grounds near (or upon any vessel or scow other than those to be speedily, and according to the duty of any person, removed, lying at) any such pier, wharf, or bulkhead, except according to a resolution of this Board specially authorizing the same, and a permit obtained from this Department, and according to its regulations. And no person shall contribute to the making of any such accumulations. Nor shall any straw, hay, or other substance which has been used as bedding for animals, be placed or dried upon any street or sidewalk, or roof of any building, nor shall any straw, hay, or other substance, or the contents of any mattress, or bed, be deposited, or burned; nor shall accumulation thereof be made within two hundred feet of any street without a permit from this Board.

SEC. 113. That no pile or deposit of manure, offal, or garbage, nor any accumulation of any offensive or nauseous substance, shall be made within three hundred feet of any church or place of worship, nor within the limits of said city within three hundred feet of any inhabited dwelling, nor shall any person or corporation unload, discharge, or put upon or along the line of any railroad, street, or highway, or public place within said city, any manure, offal, garbage, or other offensive or nauseous substance, within three hundred feet of any inhabited dwelling, nor shall cars or flats loaded with

* As amended May 5, 1874.

or having in or upon them any such substance or substances be allowed to remain or stand on or along any railroad, street, or highway within the limits of said city within three hundred feet of any inhabited dwelling.

SEC. 114. That no manure, garbage, or other material that is liable to emit an offensive exhalation, shall, in or adjacent to the built-up portions of the City of New York, be turned or stirred (except about its removal), in such way as to be liable, by reason thereof, to increase such exhalations.

SEC. 115. That every proprietor, lessee, tenant, and occupant of any oyster-house, oyster-saloon, or other premises where any oysters, clams, lobsters, or shell or other fish are consumed, used, or sold, or where any of the refuse matter, offal, or shells thereof accumulate, shall daily cause all such shells, offal, and refuse matter to be removed therefrom to some proper place, and shall keep his house, saloon, and premises at all times free from any offensive smells or accumulations.

SEC. 116. That no hotel or house swill or garbage, or offensive material of a liquid nature, or partly liquid nature, not removed or required to be moved by the contractors for street cleaning, shall be transported through or along any street of the City of New York, except in tightly-covered iron-bound casks or boxes, and none of the contents of such casks or boxes shall be allowed to fall, or leak, or spill therefrom.

SEC. 117. That the owners, lessees, tenants, and managers of every blacksmith or other shop, forge, coal-yard, foundry, manufactory, and premises where any business is done, shall cause all ashes, cinders, rubbish, dirt, and refuse to be removed to some proper place, so that the same shall not accumulate at any of the above-mentioned premises, or in the appurtenances thereof, nor the same become filthy or offensive. Nor shall any smoke, cinders, dust, gas, or offensive

odor be allowed to escape from any such building, place, or premises to the detriment or annoyance of any person not being therein or thereupon engaged.

SEC. 118. That from and after the 1st day of June, 1870, every furnace employed in the working of engines by steam, or in any mill, factory, printing-house, dye-factory, iron-foundry, glass-house, distillery, brew-house, sugar-refinery, bakehouse, gasworks, or in any other buildings used for the purposes of trade or manufacture, shall be so constructed as to consume or burn the smoke arising therefrom, unless a permit to the contrary be obtained from this Department.

SEC. 119. That no vault, privy, sink, cistern, or cesspool shall hereafter be made or rebuilt in the City of New York, except in accordance with the regulations, and pursuant to a permit first obtained from this Department; nor shall any erection or cover be made or put upon, or over the same, until the same has been inspected by the Sanitary Superintendent, or any officer detailed by him, and been found to correspond to such permit and regulations; and no privy shall be built within two feet of the line of any lot.

DISEASED ANIMALS.

SEC. 120. That no diseased or sickly horse, cattle, swine, sheep, dog, or cat, or other animals, nor any that have been exposed to any disease that is contagious among such animals, shall be brought into the City of New York.

SEC. 121. That no person shall keep, retain, or allow or employ to be kept or retained, at any place within or adjacent to the built-up portions of the City of New York, any horse, ass, or colt, having the disease known as glanders or farcy.

Dead, Sick, and Injured Animals.

Sec. 122. That no person shall leave in or throw into any place or street or public water, nor offensively expose or bury, the body (or any part thereof) of any dead or fatally sick or injured animal; nor shall any person keep any dead animal or any offensive meat, bird, fowl, or fish, in a place where the same may be dangerous to the life or detrimental to the health of any person.

Sec. 123. That any animal, being in any street or public place, within or adjacent to the built-up portions of New York City, and appearing in the estimation of any officer or inspector of this Department (and of two discreet citizens, called by such officer or inspector to view the same in his presence) injured or diseased, past recovery for any useful purpose, and not being attended and properly cared for by the owner or some proper person to have charge thereof for such owner; or not having been removed to some private premises, or to some place designated by such officer or inspector within one hour after being found or left in such condition, may be deprived of life by such officer or inspector, or as he may direct, and shall thereafter, unless at once removed by the owner or proper person, be treated as any other animal found on a street or place.

Sec. 124. That any person having a dead animal or an animal past recovery, and not killed for and proper for use as meat or fish, or in any offensive condition or sick with an infectious or contagious disease, on his premises in said city, and every person whose animal, or any animal in his charge or under his control in any street or place, may die or become or be in a condition past recovery, shall at once remove or cause the removal of such animal, dead or alive, to some proper place; and when such place may be designated by the Sanitary Superintendent of this Department, to the place so designated.

Sec. 125. That it shall be the duty of the owner, and o

the person that last had or then having charge of any animal, so dead or injured or diseased, and being in any street or public place, to at once give notice thereof, and of the nearest street and avenue where it may be, to some inspector or officer of this Department, or of the Sanitary Bureau, unless such animal is at once removed by some proper person.

SEC. 126. That no person other than the inspectors or officers of this Department or the Board of Police, or persons thereto authorized, shall in any way interfere with such dead, sick, or injured animal in any street or place, and no person shall skin or wound such animal in such street or public place, unless to terminate its life as herein authorized, except that the owner or person having control of such animal may terminate the life thereof in the presence and by the consent of a policeman or an inspector or officer of this Department.

SEC. 127. That no person shall obstruct, delay, or interfere with the proper and free use, for the purposes for which they may be, and should be, set apart and devoted, of any dock, pier, or bulkhead set apart for the use of any contractor or person engaged in removing any offal, garbage, rubbish, dirt, dead animals, night-soil, or other like substances, or with the proper performance of such contracts.

SEC. 128. That it shall be the duty of every contractor and person (his agents and employés) who has contracted or undertaken to remove any diseased or dead animal, offal, rubbish, garbage, dirt, street-sweepings, night-soil, or other filthy, offensive, or noxious substance, or is engaged about any such removal, or in loading or unloading of any such substance, to do the same with dispatch, and in every particular in a manner as cleanly and little offensive, and with as little danger and prejudice to life and health as possible.

SEC. 129. That no matter or material in the section last mentioned shall lay piled up, or partially raked together, in any street or place before the removal thereof, more than a *reasonable time*, nor for more than four hours in the day *under any circumstances*.

SEC. 130.* That no ship, boat, or other vessel or article, shall be taken or allowed by any person to come into or lay to, or at, or within any dock, pier, bulkhead, or slip, or be placed thereon, for the purpose of the shipment or removal of any offal, garbage, rubbish, blood, or offensive animal or vegetable matter, dirt, or dead animals, or for the use of any contractor about the removal of any of the foregoing substances, without a permit from this Department.

REPORTS AS TO CONTAGIOUS AND INFECTIOUS DISEASES.

SEC. 131. That every physician shall report to the Sanitary Bureau, in writing, every person having a contagious disease (and the state of his or her disease, and his or her place of dwelling and name, if known) which such physician has prescribed for or attended for the first time since having such a contagious disease, during any part of the preceding twenty-four hours; but not more than two reports shall be required in one week concerning the same person; but every attending or practising physician thereat must, at his peril, see that such report is or has been made by some attending physician.

SEC. 132. That it shall be the duty of each and every practising physician in the City of New York to report, in writing, to the Board of Health, the death of any of his patients who shall have died in said city, of contagious or infectious disease, within twenty-four hours thereafter, and to state in such report the specific name and type of such disease.

SEC. 133. That every keeper of any boarding-house or lodging-house, and every inn-keeper and hotel-keeper, shall, within twenty-four hours, report in writing to the Sanitary Bureau, the same particulars in the last section required of any physician concerning any person being at any of the aforesaid houses or hotels, and attacked with any contagious *disease.*

* As amended August 26, 1873.

SEC. 134. That the commissioners, managers, principal, or other proper head officer of each and every public or private institution in said city shall twice in each week report in writing (or cause such report by some proper and competent person to be made twice in each week) to the Sanitary Bureau, and state therein the name, if known, and condition, and disease, of any and every person being thereat, and sick of any contagious disease.

SEC. 135. That the master, chief officer, and consignee, or one of them, of every vessel, not being in quarantine, or within quarantine limits, but being within one-fourth of a mile of any dock, wharf, pier, or building of said city, shall daily report to the Sanitary Bureau, or cause to be reported, in writing, the particulars, and shall therein state the name, disease, and condition, of any person being in or on such vessel, and sick of any contagious disease.

SEC. 136. That it shall be the duty of every person knowing of any individual in said city sick of any contagious disease (where such person shall have reason to regard such individual as neglected or not properly cared for, and to avoid giving said disease to others), and the duty of every physician hearing of any such sick person, who he shall have reason to think requires the attention of this Department, to at once report the facts to the Sanitary Bureau, in regard to the disease, condition, and dwelling-place or position of such sick person.

SEC. 137. That the keepers, lessees, tenants, and owners of every boarding-house and lodging-house shall, within six hours after the fact shall come to his or her or their knowledge, notify the Sanitary Bureau, in writing, of the fact of any sea-faring man or person lately from any vessel being taken sick at such house, and shall in such notice state where such sick person may be found, and from what vessel, and when he came, to the best of the knowledge of the person or persons giving such notice.

SEC. 138. That every master and chief officer of any vessel, and every physician of, or who practiced on, any vessel which shall arrive in the port of New York from any other port, shall at once report to this Department any facts connected with any person or thing on said vessel, or that came thereon, which he has reason to think may endanger the public health of this city; and he shall report the facts as to any person being or having been sick thereon of a contagious disease, and as to there being, or having been during the voyage or since her arrival, any infected person or articles thereon.

SEC. 139. That every master, charterer, owner, part owner, and consignee of any vessel or of the cargo thereof which shall be in the water of said city, unless detained in quarantine, shall at once give, or cause to be given, to the Sanitary Superintendent, written notice of any infected article or person, and of every person sick of a contagious disease, being or having within ten days been on board said vessel; and also of each and every fact and thing relative to said vessel, sick person or cargo, or to the crew of such vessel, which any of the first-mentioned persons shall have reason to think may be useful for this Department to know, or be or become dangerous or prejudicial to life or health in said city.

REMOVALS FROM, AND UNLOADING OF, VESSELS.

SEC. 140. That every master, owner, charterer, part owner, and consignee of any vessel that shall bring any cotton into the port of New York and within the limits of the City of New York, between the first day of May and the first day of November of each year, shall at once report to this Department, or cause to be made, in writing, a report to this Department of, the fact of any such cotton being in a dangerous, infected, or unsound condition, or having been exposed to any infection.

SEC. 141. That no master, charterer, owner, part owner, or consignee of any vessel, or any other person, shall bring to any dock, pier, wharf, or building within one thousand feet thereof, in said city, or unload at any dock, building, or pier therein, or have on storage in the built-up portion of said city any skins, hides, rags, or similar articles or materials, having been brought from any foreign country or any infected place, or from any point south of Norfolk, Virginia, without or otherwise than according to a written permit so to do from this Department; and no person shall sell, exchange, or in any way make exposure of any straw, bedding, or other articles that have been exposed to the contagion or infection of any contagious disease, or have been or are liable to communicate such disease, or have lately been on any emigrant vessel, till after the same have been adequately cleansed or disinfected.

SEC. 142. That no owner, agent, or consignee of any vessel or cargo, and no officer of any vessel (in respect of either of which vessel or cargo a permit, according to any law, ordinance, or regulation, shall or should have been obtained to pass quarantine, or to come up to the water-front of the City of New York), shall unlade or land, or cause to be unladen or landed, such cargo, or any part thereof, in said city, without having first received the written permit of this Department so to do.

SEC. 143. That no captain, officer, consignee, owner, or other person in charge of any vessel (or having right and authority to prevent the same) shall remove or aid in removing from any vessel to the shore (save as legally authorized by the Health Officer of the Port of New York, and into quarantine grounds or building only) any person sick of, or person that has been exposed to and is liable very soon to develop any contagious disease, nor so remove or aid in removing any articles that have been exposed to the contagion of any such disease, except in accordance with a permit of this Department, or with its special regulations.

SEC. 144. That no master, charterer, consignee, or other person, shall order, bring, or allow (having power and authority to prevent) any vessel or person, or article therefrom, from any infected port, nor any vessel, or person, or article therefrom liable to quarantine, according to the ninth section of the three hundred and fifty-eighth chapter of the Laws of 1863 (or under any other laws, and whether such quarantine has been made or suffered, or not), to come or be brought to any point nearer than three hundred yards of any dock or pier, or to any building in said city, without or otherwise than according to a permit of this Department. Nor shall any vessel, or person or thing therein or therefrom, having been in quarantine, come or be brought within the last-named distance of any last-named place, without the permit or assent of this Department.

SEC. 145. That no person shall bring into this city, from any infected place, or land, or take therein, from any vessel lately from any infected port, or from any vessel or building in which had lately been any person sick of a contagious disease, any article or person whatsoever, nor shall any such person land or come into said city without a permit of this Department; and it shall be no excuse that such person or article so offending, or the occasion of offence, has passed through quarantine, or has a permit from any other source than this Department.

SEC. 146. That no owner, part-owner, charterer, agent, or consignee of any vessel, nor any officer or person having charge or control of the same, shall allow to be cast therefrom, and no person shall cast therefrom, into any public waters of the City of New York, any straw, bedding, clothing, or other substance, from any incoming vessel, from any foreign port, or port south of Cape Henlopen, without a permit from this Board, except as allowed by the quarantine authorities.

Health Officer.

Sec. 147. That the Health Officer of the Port of New York, his assistants and deputies, shall at all times keep this Department informed, by weekly written reports, of the number of vessels in Quarantine, of the number of persons sick in the floating or other hospitals thereat, and of the diseases with which they are severally afflicted; he and they shall also receive into the floating hospital all cases of yellow fever found in this city and the port aforesaid; he or they shall not send or allow to return to the vicinity of said city, without the permit of the Sanitary Superintendent, any person, vessel, or article which this Department has ordered to Quarantine.

Removals of Sick Persons.

Sec. 148. That no person shall, within the built-up portions of this city, without a permit from this Department, carry or remove from one building to any other, or from any vessel to the shore, any person sick of any contagious disease. Nor shall any person, by any exposure of any individual sick of any contagious disease, or of the body of such person, or by any negligent act connected therewith, or in respect of the care or custody thereof, or by a needless exposure of himself, cause or contribute to, or promote, the spread of disease from any such person, or from any dead body.

Vaccination.

Sec. 149. That every person, being the parent or guardian, or having the care, custody, or control of any minor, or other individual, shall (to the extent of any means, power, and authority of said parent, guardian, or other person, that could properly be used or exerted for such purpose) cause and procure such minor or individual to be so promptly, frequently, and effectively vaccinated, that such minor or individual shall not take, or be liable to take, the smallpox.

Exposure to Disease.

Sec. 150. That no parent, master, or custodian of any child or minor (having power and authority to prevent) shall permit any such child or minor to be unnecessarily exposed, or to needlessly expose any other person, to the taking, or to the infection of, any contagious disease.

Dead Bodies—Interments—Sextons.

Sec. 151. That no interment of the dead body of any human being, or disposition thereof in any tomb, vault, or cemetery, shall be made within the City of New York, without a permit therefor granted by this Department, nor otherwise than in accordance therewith, and no sexton or other person shall assist in, or assent to, or allow, any such interment, or aid or assist about preparing any grave or place of deposit for any such body, for which such permit has not been given authorizing the same. And it shall be the duty of every person who shall receive any such permit, to preserve and to return the same to this Department, as its regulations may require.

Sec. 152. That no new burying-ground, cemetery, tomb, or vault for dead human bodies shall be established, nor shall the remains of any dead body be placed in any existing burying-ground, vault, tomb, or cemetery in the City of New York, nor any of said receptacles be opened, exposed, or disturbed, except according to the terms of a permit therefor given by this Department; and every body buried in any such place shall be buried to a depth of six feet below the surface of the ground, and four feet below any closely adjacent street.

Sec. 153. That every person who acts as a sexton or undertaker in the City of New York, or has the charge or care of any vault, tomb, burying-ground, or cemetery for the reception of the dead, or where the bodies of any human beings

are deposited, shall cause his or her name and residence, and the nature of his or her charge and duties, to be registered with this Department.

SEC. 154. That every sexton and other person having charge of any burying-ground, cemetery, tomb, or vault in the City of New York, shall, before twelve o'clock of Monday of each week, make return to this Department of the bodies and persons buried since their last return, and in such form, and specifying such particulars, as the special regulations of this Department shall require.

SEC. 155. That no captain, agent, or person having charge of, or attached to, any ferry-boat, sailing or other vessel, nor any person in charge of any car, stage, or other vehicle, or public or private conveyance, shall convey or allow to be conveyed thereon, or by any means aforesaid, nor shall any person convey or allow to be carried or conveyed, in any manner, from or in the City of New York, the dead body of any human being, or any part thereof, without a permit therefor from this Department. And the proper coupon for that purpose attached to any such permit, when issued, shall be preserved and returned to this Department, as its regulations may require, by the proper officer or person on such boat or vessel, and by the proper person in charge of any train of cars or vehicle on which any such body may be carried from said city; provided, however, that the same effect shall be given, under this section, to a burial or transit permit issued by the Health Officer, or Board of Health of the City of Brooklyn, as to a burial or transit permit issued from this Department, when the death of the person named in the permit shall have occurred in the City of Brooklyn; and provided that the same effect shall be given under this section to a burial or transit permit issued by the Board of Health and of Vital Statistics of Richmond County, as to a burial permit from this Department, when the death of the person named in the permit shall have occurred in Richmond County; and provided that the same effect shall be given

under this section to a burial or transit permit issued by the Board of Health, or Health Officer, of Long Island City, as to a burial or transit permit issued from this Department, when the death of the person named in the permit shall have occurred in Long Island City.

SEC. 156. That no person shall retain, expose, or allow to be retained or exposed, the dead body of any human being to the peril or prejudice of the life or health of any person.

SEC. 157. That it shall be the duty of every person who has discovered or seen the body of a dead human being, or any part thereof (if there is reason for such person to think that the fact of the death, or the place of such body, or part thereof, is not publicly known), to immediately communicate to the Bureau of Vital Statistics the fact of such discovery of such body, the place where, and time when, the same was discovered or seen, and where the same is or may be found, and any facts known by which said body may be identified, or the cause of death ascertained.

SEC. 158. That no person shall retain or allow to be retained unburied the dead body of any human being for a longer time than four days after the death of such person, without a permit from this Department, which permit shall specify the length of time during which such body may be retained unburied. This ordinance shall not apply to bodies retained in the public Morgue at Bellevue Hospital during the time of such detention.

CORONERS.

SEC. 159. That at least two hours before the holding of any inquest, within the City of New York, upon a dead body, the coroner who has been notified of any death, or who may propose or intend to hold such inquest, shall transmit and cause to be delivered to the Bureau of Vital Statistics, a *written* notice containing the following facts, so far as known *or reported to* any such coroner:

1. The fact of any such call for the holding of an inquest, and by whom made, and when and from whom received by the coroner.

2. The place (giving the street and street number, and if there be none, then other particulars) where the body is.

3. What is reported to be the cause of the death.

4. When and where the death took place, and where the body has since been.

5. When and where he proposes to hold the inquest, giving the street, the street number (or otherwise sufficiently designating such place), and the hour.

6. What physician, or physicians, or other professional person last attended such deceased person, or attended such person within forty-eight hours of such decease.

At any time after the commencement of any inquest, the coroner holding, or who should hold, or who held such inquest, shall within twelve hours after the receipt of a written request so to do from the Sanitary Superintendent, answer in writing such of the following or such other questions as may be propounded to him by the said Inspector, to the best of his knowledge, information, and belief.

Report of Coroner [*here insert Coroner's name*] upon the body of [*here fill in name or description of deceased*], on the [*here fill in year, month, and day*], at [*here mention street and number*].

1. What was the age, sex, and last occupation, residence, and nativity of such deceased person?

2. At what house or place, and in or near what street or avenue, at what number therein did such deceased person die?

3. If such person died of any poison, when and where was the same administered, and what was the kind of poison?

4. If such person died of violence, when and where was the same committed, and upon what part of the body and organs, and of what did it consist?

5. If such person died of any other cause, state such

cause, and when and where the cause took effect upon, or was received by the deceased?

6. Who was last in care of or with such deceased person, and at what place and at what time before death, and when, giving the full name and residence of each such person?

7. What was the name and residence of the physician and persons who last attended, and of each physician and person who within forty-eight hours of such death attended upon such deceased person, and where did he so attend; and whether said physician was notified of or attended and was examined at such inquest?

8. The times, places, and dates of holding the inquest, and the names and residences by street number of the jurors and witnesses that attended, and dates of their attendance, and when and where the body of the deceased was present at such inquest?

9. Was any *post-mortem* examination made, and if so, when, where, and by whom, and who was present thereat?

It shall be the duty of all coroners in said city to make return to the Bureau of Vital Statistics of all inquisitions by them taken, except when, by law, such inquests are required to be filed elsewhere, and such return shall include the evidence taken on such inquest, and the verdict of the jury, and the full names and residences of the several jurymen.

And in all cases where the inquest may be required by law to be filed elsewhere, such coroner shall make return to said Bureau of a copy of such inquest, including a copy of such evidence and verdict; and all such returns shall be made within forty-eight hours after the holding of any and every inquest.

Marriages, Births, and Deaths.

Sec. 160. That every clergyman, magistrate, and other person who may perform a marriage ceremony, shall make and keep a registry of the marriage celebrated, and therein

enter the full names of the parties married, and the residence, age, and condition of each; and every physician, midwife, and other person who may professionally assist or advise at any birth, shall make and keep a registry of every such birth, and therein enter the time and place, ward, and street number of such birth, and the sex and color of every child born, and the names and residence of each of the parents (so far as the foregoing facts can be ascertained); and every physician and professional adviser who has attended any person at a last illness, or has been present by request at the death of any person, shall make and preserve a registry of such death, stating the cause thereof, and specifying the date, hour, place, and street number of such death.

SEC. 161. That it shall be the duty of every person mentioned in the last section, or required to make or keep any such register, to present to the Bureau of Vital Statistics a copy of such register, signed by such person, or a written statement, by him signed, of all the facts in said register required to be entered, within five days after the birth or marriage, and within thirty-six hours after the death of any person to whom such registry may or should relate, which shall thereupon be placed on file in the said Bureau.

SEC. 162. That every clerk, officer, and person within said city, required by the one hundred and fifty-second chapter of the Laws of 1847, or by the three hundred and eightieth chapter of the Laws of 1864, to make or preserve any entry, registry, record, or certificate, as to births, deaths, or marriages, shall send, or cause to be sent, to the Bureau of Vital Statistics of this Department, within five days after knowledge of the birth, death, or marriage, a full and true statement in writing, containing all the particulars in respect thereto (so far as reasonably ascertainable), which, in any other section hereof, are required to be stated by any person relative to any birth, death, or marriage, which shall thereupon be placed on file in said Bureau.

SEC. 163. That every person therein referred to within the City of New York shall perform the acts required in the following provisions (so far as the same are applicable to said city) of section 13 of chapter 74 of the Laws of 1866, to wit:

"It shall be the duty of the next of kin of any person deceased, and of each person being with such deceased person at his or her death, and of the person occupying or living in any house or premises in or on which any person may die, and of the parents of any child born in said District (and if there be no parent alive that has made such report, then of the next of kin of such child born), and of every person present at such birth, within five days after such birth or death, to report to said Board in writing, so far as known, the date, ward, and street-number of said birth, and the sex and color of such child born, and the names of the parents, and the age, color, nativity, last occupation, and cause of death of such deceased person, and the ward and street, and place of such person's death and last residence."

RAILROAD CARS.

SEC. 164. That no railroad car, or vehicle constructed for or engaged in the business of carrying passengers on any line of railroad in the City of New York, and which car is propelled by horse-power, and not by steam-power, shall be used with cushions on the seats, or on the backs of the seats thereof.

SEC. 165. That each and every car used upon any railroad in the City of New York for the carrying or transportation of passsengers, shall on each and every day on which it may be used for the carrying or transportation of passengers, be carefully and thoroughly washed and cleaned, so that all filth and dirt are removed from the inside of said car.

SEC. 166. That no straw or hay shall at any time be *used or placed* on the floor of any railroad car engaged or

used in the business of carrying or transporting passengers, within the City of New York.

SEC. 167. That no person shall at any time carry or convey in, or upon any passenger railroad car, nor shall any conductor or person in charge of any such railroad car, allow to be carried or conveyed in or upon such car, except on the front platform, any soiled or dirty articles of clothing or bedding, in baskets or bundles.

SEC. 168. That every car used for the transportation of passengers in the City of New York shall be so constructed as at all times to provide and secure good ventilation; and each and every such car shall have placed in the roof, in addition to windows in the roof, two ventilators—one at a distance of two feet from each end of the car, and so arranged, with a revolving top, that when the car is in motion the currents of air shall pass outward through the ventilators.

GENERAL SUBJECTS.

SEC. 169. That no master or teacher, or manager of or in any school, public or private, or of or in any Sunday-school or gymnasium, nor the officers or managers thereof, nor officers or managers, or persons having charge of any place of public worship, shall so far omit or neglect any duty or reasonable care or precaution respecting the safety or health of any scholar, pupil, or attendant, or respecting the temperature, ventilation, or cleanliness or strength of any church, hall of worship, school-house, school-room, or place of practice or exercise, or relative to any thing appurtenant thereto, as that by reason of such neglect or omission the life or health of any person shall suffer or incur any avoidable peril or detriment.

SEC. 170. That no owner, part owner, tenant, or occupant of any building or erection shall allow any part thereof, or any substance therein, or any thing thereto attached, and which any such person can control or remove, to continue or

remain in a position or condition that shall imperil the life or safety of any person thereat or therein, or who is or may properly be in any street or place.

SEC. 171. That no person shall take, carry, expose, or place (or induce any other person so to do) in or upon any street or public place, any substance, animal or thing, which shall imperil the life or health of any person who is or may properly be in such street or place.

SEC. 172. That no person owning, occupying, or having charge of any stable or other premises, shall keep or allow thereon or therein any dog or other animal which shall by noise disturb the quiet or repose of those or any one therein or in the vicinity, to the detriment of the life or health of any human being.

SEC. 173. That no person shall race or run or rapidly drive any horse or other animal in a public street or place, or allow the same to so move, or throw or send up any kite, stone, or other substance, or burn or set off any fireworks, fire-crackers, or other substance, whereby, or by reason of which, any human life may be put in danger or peril.

SEC. 174. That no person shall engage in or encourage any fight, or the dealing of any blow by any human being in said city, against any other human being; nor shall any person permit such fight, having power and authority to prevent the same.

SEC. 175. That no person shall, except according to a permit or the regulations of this Department, set off or fire any gun or other fire-arm, or rock blast in any public street, alley, or place within the built-up portions of said city, whereby any human life may be imperilled.

SEC. 176. That no person shall sell, loan, or give to, or allow to be taken by any other person, any fire-arm, or other deadly or dangerous weapon, when there shall be any reason *for such* first-named person to think or believe that any dan-

ger to life may illegally result from the giving, loaning, selling, or from the use of such arm or weapon.

SEC. 177. That no large or church-bell shall be rung or tolled at any funeral in said city without a permit therefor from this Department, nor shall such bell be rung or tolled at any other time therein to the prejudice or peril of the life or health of any human being.

SEC. 178. That every person who omits or refuses to comply with, or who resists any of the provisions of the Sanitary Code, or any of the rules, orders, sanitary regulations, or ordinances established or declared by this Board, or any of the provisions of said seventy-fourth chapter of the Laws of 1866, or of chapter six hundred and eighty-six of the Laws of 1866, or of chapter nine hundred and fifty-six of the Laws of 1867, in so far as the same is now in force and applicable to the City of New York, or the execution of any order or special regulation of this Department, will be liable to the arrest, suit, penalty, fine, and punishment in said laws provided and declared; of all of which notice must be taken.

ADDITIONAL ORDINANCES OF THE SANITARY CODE.

SEC. 179.* No adulterated or deleterious coffees, teas, or other preparations from which drinks are made shall be bought, sold, held, or offered for sale.

SEC. 180.† That no offal, blood, scrap, guts, gut-fat, or refuse of slaughter-houses shall be transported through, brought in, or allowed to be between Second avenue and Tenth avenue in the city of New York, without a special written permit from this Department.

SEC. 181.‡ That each of the several persons and companies that run or cause to be run any car drawn by horses

* Adopted July 29, 1873.
† Adopted August 1, 1873.
‡ Adopted September 16, 1873.

for the transportation of passengers in any part of the city of New York, do cause both the front entrances from the street upon the platform of the fore end of each of said cars to be effectually barred or closed by gate or otherwise while said cars are in motion, so as to prevent access to any portion of the said platform, or the hand rails or the steps thereof by any person not upon such car.

SEC. 182. * That the owners, lessees, and occupants of any building in the city of New York, in which hatchways or well-holes exist, or shall hereafter be constructed, shall cause the same to be effectually barred or inclosed by railing, gates, or by other contrivances approved by the Board of Health, for the prevention of accidents therefrom.

SEC. 183.† That no person shall place or deposit garbage, rubbish, or liquid substance of any kind in any box, barrel, tub, cart, wagon, or any receptacle whatever used for the reception, the holding, or the transportation of ashes; nor shall any one put ashes in, or upon, garbage, rubbish, or liquid substances, or in any way place together, mix, or have in the same receptacle ashes and garbage in the city of New York.

* Adopted October 14, 1873.
† Adopted April 28, 1874.

LAWS

RELATING TO THE

BOARD OF HEALTH.

CHAPTER 74, 1866.

AN ACT to Create a Metropolitan Sanitary District and Board of Health therein, for the Preservation of Life and Health, and to Prevent the Spread of Disease. Passed February 26, 1866, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. So much of the territory of the State of New York, and of the cities, villages, and towns thereof, as now composes the Metropolitan Police District of the State of New York, shall constitute, and is hereby declared, a district to be known as "The Metropolitan Sanitary District of the State of New York."

SEC. 2. Within fifteen days after the passage of this act the Governor shall nominate, and, by and with the consent of the Senate, shall appoint four suitable persons, residents of said District, three of whom must be physicians, and one of whom shall be a resident of the city of Brooklyn, who, with the Health Officer of the port of New York for the time being, shall be Sanitary Commissioners in and for said District; and the said Sanitary Commissioners, together with the Commissioners, for any time being, of the Metropolitan Police (not exceeding four, and being the present four and their successors), shall constitute a board of health for the said Metropolitan Sanitary

District, and said board shall be denominated "The Metropolitan Board of Health;" any five members of which, at any regularly called or adjourned meeting, shall organize and constitute a quorum for the transaction of business; and the phrase "said board," or "the board," when used herein, unless clearly referring to some other body, shall be construed to mean said "The Metropolitan Board of Health;" and the phrase "said district," or "the district," unless the same clearly refers to some other district, shall be construed to refer to said "The Metropolitan Sanitary District of the State of New York." And the term "sanitary commissioners" shall refer to the members of said board who are not also members of the Board of Police, and whenever the words "police," "board of police," or "police commissioners" are used in this act, they shall be taken and construed to mean the "Board of Metropolitan Police Commissioners of the Metropolitan Police District of the State of New York." And whenever the words "place, matter, or thing," or either two of said words, are used in this act, they shall, unless the sense plainly requires a different construction, be construed to include whatever is embraced in the enumeration with which they are connected in either and both clauses of the fourteenth section of this act.

SEC. 3. The said four persons so appointed shall hold office as such Sanitary Commissioners respectively for the terms following, namely: One for one year, one for two years, one for three years, and one for four years, and until their successors are appointed and qualified. Immediately after the appointment of said four persons as aforesaid, they shall meet in the office of the Secretary of State, and shall proceed, under his direction, to determine by lot which of them shall hold, for the respective terms of one, two, three, and four years, the said office of Sanitary Commissioner. Immediately, and before entering upon the duties of the office, they shall take the oath prescribed for State officers by the Constitution of the State, and shall file the same in the office of the Secretary of State, who, upon receiving the said oath of office, shall issue to each of said commissioners a certificate of appointment for his respective term *of office so* determined as aforesaid; upon receiving which they *shall severally* be and become Sanitary Commissioners, and

shall possess and exercise the powers and perform the duties of said board as defined in this act.

SEC. 4. The term of office of each of the said Sanitary Commissioners, after the expiration of the terms aforesaid, shall be four years, and they shall be appointed upon the nomination of the Governor, by and with the advice and consent of the Senate. Any vacancies that may occur by reason of death, resignation, removal from office or otherwise, shall be filled in like manner. But if any vacancy shall occur during the recess of the Senate, the Governor may fill such vacancy by appointment, and the person so appointed shall hold office until twenty days after the next meeting of the Senate.

SEC. 5. * Immediately after the four appointed Sanitary Commissioners shall have taken the oath of office as above provided, they shall meet with the Commissioners of the Metropolitan Police, and the Commissioners of Metropolitan Police with them, and the Health Officer of the port of New York, and organize as a board of health by electing one of said Board to be President, and one of said board to be Treasurer thereof, and by appointing a proper person to be Secretary of said Board. And the successive Presidents of said Board of Health shall be annually elected by said Board from the members thereof, and the successive Treasurers shall be members of said Board; but the Secretary shall not be a member of the Board. The Treasurer and Secretary shall respectively continue in office as such until removed by the election of a successor or otherwise. The said Sanitary Commissioners shall each receive a salary of two thousand five hundred dollars a year; and each Police Commissioner who may be a member of said Board of Health, and the Health Officer, shall as such receive a salary of five hundred dollars a year; † and the member of said Board of Health, who acts as Treasurer, shall receive an additional compensation of five hundred dollars a year for his services as Treasurer. All salaries allowed under this law shall be payable as the Board shall provide. But for every regular or special meeting of said Board which any Sanitary Commissioner or the Secre-

* As amended, Laws of 1866, Chapter 686, Section 4.
† Amended, Laws of 1867, Chapter 956, Section 16.

tary shall fail to attend, there shall be deducted from the salary of the person so failing the sum of ten dollars; and for every failure of a Police Commissioner or of said Health Officer to attend any such meeting, there shall be deducted from his said salary the sum of two dollars; but these provisions shall not apply to any adjourned meeting, and it shall be the duty of the Treasurer to see that all such deductions are made before payments of said salaries. The Board may appoint a Corresponding Secretary at an annual salary not exceeding one thousand dollars.

SEC. 6. The President of the said Board shall preside and preserve order at the meetings of the Board; and, in case of the absence of or inability of the regular Secretary to attend, he shall appoint a Secretary *pro tem.*, who, for the time being, may perform any duty of the Secretary. * The President shall have all the power and authority given to the "City Inspector," in the six hundred and forty-sixth chapter of the laws of eighteen hundred and sixty-five (passed May first, eighteen hundred and sixty-five), in respect to the making, awarding, or executing of a contract or contracts for street cleaning, or any matter thereto pertaining. But nothing herein contained shall be construed as affecting in any manner the validity of any contract heretofore made by virtue of said act. And the Board at any time, in the absence of the President or Secretary, may elect a President or Secretary *pro tem.* from their number, who shall exercise the powers of such officers respectively.* The Secretary shall, subject to the direction of said Board, keep and authenticate its acts, records, papers, and proceedings, preserve its books and papers, conduct its correspondence, and aid in accomplishing the purposes of this law, as the Board may direct; and said officer (as well as the other officers and agents appointed by said Board) shall be subject to removal by the Board for cause, to be entered in its minutes, and said Board may appoint his or their successor; and his salary, to be fixed from time to time by the Board, shall not exceed three thousand five hundred dollars annually. Said Board may design and adopt a seal and use the same in the authenti-

* Amended, Laws of 1867, Chapter 956, Section 1.

cation of its orders and proceedings, commissioning its officers and agents, and otherwise, as the rules of the Board may provide.

SEC. 7. The Treasurer of said Board shall be the fiscal officer of the Board. He shall hold, and on check and voucher, duly disburse, as said Board may order, and for the purposes of and in conformity to this act, the moneys he may receive or belonging to the fund herein provided; and shall deposit the same when paid to him by the Treasurer of the State of New York, or otherwise, and pending the regular disbursement thereof, in a bank or banks in the City of New York designated by such last-named officer. He shall execute a bond, with not less than two sureties, conditioned in a penalty of thirty thousand dollars, to the people of the State of New York, for the faithful discharge of his duties as such Treasurer. The sureties, not less than two in number, shall justify before a Justice of the Supreme Court, in the aggregate in a sum not less than twice the last-named amount; but before the said Treasurer shall enter upon his duties, the said bond shall be approved by and filed with the Comptroller of the State. The Treasurer shall keep, or cause to be kept, books showing all his receipts and payments, and shall preserve his vouchers therefor; and should any collections ever be made on such bond, or in suits or proceedings, or otherwise, by said Board, the amount thereof shall be received and accounted for by the Treasurer, or in case of collection on his bond, by the recipient thereof, to the State Treasurer, and be deposited in the bank or banks aforesaid, applied for the legitimate uses of said Board, or as herein elsewhere provided.

SEC. 8. Any Sanitary Commissioner of said Board who shall accept or hold any political or municipal office during his term of office, or shall be publicly nominated for any office elective by the people, and shall not, within ten days succeeding his knowledge thereof, publicly decline the said nomination, shall, in either case, be deemed thereby to have vacated his membership of said Board, and the vacancy so created shall be filled as is provided as to other vacancies; but membership of this Board shall not affect membership in the Board of Police or the office of Health Officer.

SEC. 9. Any member of the said Board may, at any time, be removed from office by the Governor, under the provisions of the laws relative to the removal of sheriffs from office, which provisions are hereby extended so as to relate to the members of said Board; but before such removal, such member shall be served with specific charges, stating the dereliction of duty complained of, and shall be afforded an adequate opportunity to publicly answer the same and to make his defence thereto, upon reasonable notice to be given him; and on the application of the Governor, or the party charged, any judge of the Supreme Court shall have as full power and authority to compel the attendance and examination of witnesses, touching such charges or defence, and the production of books and papers relating thereto, at the place and time where the aforesaid proceedings or hearing may take place, as is given herein in respect to the examination of witnesses, or the production of papers, on the application of said Board, in the fourteenth section of this act. And it shall be the duty of such judge (and of any other judge named in said section) to exercise such authority, and to take or supervise the taking of such examination to be used on the hearing of such charges or defence. And if, by removals or other cause, the members of the Board shall be less than five, but not less than three, the existing members shall still constitute a Board, competent, by unanimous action, to exercise the powers delegated by this act.

SEC. 10. Said Board shall have power to create a chief executive office, and appoint a suitable person to fill such office, who shall be an experienced and skilful physician, resident in said district, whose full name of office shall be, "The Sanitary Superintendent of the Metropolitan Sanitary District of the State of New York," but he may be designated as "Sanitary Superintendent." It shall be the duty of said officer, as he may be directed, to execute, or cause to be executed, the orders of said Board, and generally, according to its instruction, to exercise a practical supervision in respect to the inspectors, agents, and other persons other than the Secretary, Treasurer, and members of the Board, or the members of the police force who may exercise any authority under this act; and said officer shall devote his services to the aforesaid purposes as the

Board may from time to time direct. He shall be entitled to receive a salary to be fixed by the Board, which shall not exceed five thousand dollars annually.* Such Superintendents shall make reports weekly, or oftener, if directed by the Board, in writing, stating generally his own action and that of his subordinates, and the condition of the public health in said district, and any causes endangering life or health that have come to his knowledge during said period. And said Board may appoint two "Assistant Sanitary Superintendents," one of whom shall be a resident of the city of Brooklyn, and shall principally perform his duties in that city, whose duties shall be of the same nature as those of the last-named officer; and their salaries, not to exceed thirty-five hundred dollars a year each, shall be fixed by the Board.†

SEC. 11. Said Board may appoint and commission such number of "sanitary inspectors" as the Board may deem needful, not exceeding fifteen, and from time to time prescribe the duties and salaries‡ of each of said inspectors and the place of their performance, and of all other persons exercising any authority under said Board, except as herein specially provided; but at least ten of such inspectors shall be physicians of skill and of practical professional experience in said district, and the residue thereof shall be selected with reference to their practical knowledge of scientific or sanitary matters, which may especially qualify them for such inspectors. Each of such inspectors shall, twice in each week, make a written report to said Board, stating what duties he has performed and where he has performed them, and also such facts as have come to his knowledge, connected with the purposes of this act, as are by him deemed worthy the attention of said Board or as its regulations may require of him; and such, and the other reports herein elsewhere mentioned, shall be preserved among the records of said Board. The Board may also employ such number of clerks and servants, and fix their salaries, and take such legal advice and employ such attorneys, as may be necessary to the efficient, safe, and economical discharge

* Amended, Laws of 1867, Chapter 956, Section 15.
† Ibid. ‡ Ibid.

of the duties by this act devolved on said Board. And may also rent, lease, fit up and furnish such offices as the convenience of the Board, its officers, agents, and employés, and the prudent and proper discharge of the duties of the Board, may require; and may make such incidental and additional expenditures, having due regard to economy, as the purposes and provisions of this act and the dangers to life and public health may justify or require; and may provide that any failure of any officer, agent, or employé of the Board to duly fulfil his engagements or discharge his duty, shall cause a forfeiture of the whole or any less portion of the salary or compensation of such officer, agent, or employé, as the rules or practice of the Board may provide. And the Board of Police is authorized to allow the Board of Health to occupy a portion of its premises.

* Sec. 12. The authority, duty, and powers, whether given by any law, or by any ordinance made thereunder, heretofore (for the purpose of preserving or protecting life or health, or preventing disease) conferred upon or now belonging to, or being exercised by the board of health, or the board of public health of or in the city of New York, or of or in the city of Brooklyn, or elsewhere in said District, the mayor and common council of either of said cities, the mayor of the city of New York, by and with the advice and consent of the board of aldermen, the president of the board of aldermen, the president of the board of assistant aldermen (or councilmen), the resident physician, the health commissioner, the mayor and the commissioners, the commissioners of health, the city inspector (or the city inspector's department), of either of said cities; or conferred upon or now belonging to any two or more of the said bodies or officers, or last-named boards or departments, or to any board of health or health officer or agent in said District, or exercised by any officer or person appointed by or deriving authority from any one or more of the bodies, officers, departments, or last-named boards (so far as said powers and authority can be exercised and such duty performed by the Board hereby created, without interference with the proper discharge of the duties, other than sanitary duties, heretofore imposed upon the Board of

* See Laws of 1867, Chapter 956, Section 10

Metropolitan Police), are hereby exclusively conferred upon, and shall hereafter be exclusively exercised by the aforesaid "The Metropolitan Board of Health," the members and officers thereof, as herein provided; and the same are to be exercised as herein set forth (and to such an extent, and in such place and manner as said Board may provide), for the greater protection and security of health and life in said District, and the appropriate parts thereof; * and after this act goes into effect, no salary or compensation shall be paid to, or fees demanded by, or expense ordered to be incurred by, any officer, board, or agent, or in respect to any service, expenditure, or employment, under the authority of any health law, ordinance, regulation, or appointment of or in said cities, or any part of said District, unless such salary, expenditure, employment, fees, or expense, shall be authorized by the Board hereby created and contemplated by the provisions of this act. And the aforesaid power, duty, and authority, hereby transferred to and conferred upon said Board, shall be held to include all the power, duty, and authority given, or conferred, or purporting to be given or to be conferred, to or upon any person, officer, or board, in or by any ordinance contained or purporting to be contained in the first ten chapters of ordinances, being numbered from one to ten inclusive, in a compilation of "Laws and Ordinances relative to the Preservation of the Public Health in the City of New York," and purporting to be published under the authority and by the direction of the Mayor and Commissioners of Health of said city, in the year one thousand eight hundred and sixty, and by any existing amendments and additions thereto. But no fees of any kind shall be charged for the performance of any duties imposed by said ordinances. And said Board shall also possess (and may exercise by its own agents, or by order to be executed by said Board of Police), throughout said District, all the power and authority for the protection of life or health, or the care or preservation of health, or persons diseased or threatened therewith, conferred by any law or ordinance relating to any part of said District, and especially by the act of the seventeenth of April, eighteen hundred and fifty-four, being the three hundred and eighty-fourth chapter of the Laws

* As amended, Laws of 1866, Chapter 686, Section 3.

of eighteen hundred and fifty-four, upon the mayor, common council, board of health, or the health officers (or upon any two or more of them, or other officers), in said act mentioned. But the powers and authority in this section given shall not be held to interfere with the powers and duties of the Croton Aqueduct Board, Street Commissioner, Superintendent of Unsafe Buildings, Comptroller of New York City, or the Board authorized to contract for street cleaning (under the law of eighteen hundred and sixty-five); nor shall any thing in the aforesaid laws or ordinances contained be construed as a limitation of any power in this bill elsewhere given to the said Board, or to limit the penalties and expenses it may enforce or collect; and all the power recited or given by said laws or ordinances shall belong wholly to said Board, who may exercise the same without the advice, assent, or coöperation of any municipal board or officer, and in any manner not inconsistent with the other sections of this law, without being limited to the means or by the procedure in said ordinances stated. And no municipal body or other authority in said District shall hereafter create or employ any officer or agent, or incur any expense, under any of said (or other) health laws or ordinances, or in respect of any matter concerning which said Board is by this act given control or jurisdiction. All the aforesaid powers are to be possessed and exercised as fully as if herein repeated and separately conferred upon said Board. And the powers of said Board shall be construed to include the ordering and enforcing, in the same manner as other orders are provided to be enforced, the repairs of buildings, houses, and other structures; the regulation and control of all public markets (so far as relates to the cleanliness, ventilation, and drainage thereof, and to the prevention of the sale or offering for sale of improper articles therein); the removal of any obstruction, matter, or thing, in or upon the public streets, sidewalks, or places,* which shall be in their opinion liable to lead to results detrimental to the public, or dangerous to life or health; the regulation and licensing of scavengers; the prevention of accidents by which life or health may be endangered; and, generally, the abating of all nuisances.

* See Laws of 1867, Chapter 956, Section 6.

SEC. 13. Said Board shall possess all the authority and be charged with all the duties conferred or imposed on the City Inspector of the city of New York, by the act passed on the second day of April, one thousand eight hundred and fifty-three, or by any and all acts relative to births, deaths, or marriages; and the duty of all persons and officers in any such (or any aforesaid) acts mentioned shall hereafter be the same, in respect to said Board, as if said law or laws had contained the name of said Board instead of that of the City Inspector of the city of New York or other officer, and said acts are hereby extended throughout said district; * but the powers now possessed by the City Inspector with reference to the inspection of weights and measures, are hereby conferred upon the Mayor of the city of New York. And it shall be the duty of said Inspector, and of whoever may have possession or control thereof, to transfer and deliver to said Board all public books, records, statistics, and papers, in his or their possession, or under his or their official and personal control, and to give such information to said Board as he or his department may possess relative to any matter in this section, or in either of said last-mentioned laws referred to, and his authority and duty under said laws shall cease when this act goes into effect, and the Justices of the Supreme Court shall have jurisdiction to enforce this provision by mandamus. And said Board shall perform all the duties by this section imposed, as a part of its regular duties, and no fees shall be demanded or received by reason thereof or any thing in said act or acts contained. It shall be the duty of the next of kin of any person deceased, and of each person being with such deceased person, at his or her death, and of the person occupying or living in any house or premises in or on which any person may die, and of the parents of any child born in said district (and if there be no parent alive that has made such report, then of the next of kin of such child born), and of every person present at such birth, within five days after such birth or death, to report to said Board in writing, so far as known, the date, ward, and street, number of said birth, and the sex and color of such child born, and the names of the parents, and the age, color, nativity,

* Amended, Laws of 1867, Chapter 956, Section 11.

last occupation, and cause of death of such deceased person, and the ward and street, and place of such person's death and last residence. And for every omission of any person to make and keep the registry required by the acts referred to in this section, and for every omission to report a written copy of the same to said Board within ten days after any birth or marriage provided to be registered, and for every omission by any person to make the report of any death or birth, with the particulars as herein required, any person guilty of said omission shall be liable to pay a fine of ten dollars, which may be sued for and recovered in the name of said Board, for the benefit of said Board. But no person shall be liable for such fine for not making the report herein required, if he or she shall prove that such report had been made to the Board by some other person before suit brought for such penalty, or that he or she was ignorant of such birth or death.*

SEC. 14. *First*—Whenever any building, erection, excavation, premises, business pursuit, matter or thing, or the sewerage, drainage, or ventilation thereof, in said District, shall, in the opinion of said Board (whether as a whole or in any particular), be in a condition or in effect dangerous to life or health, said Board may take and file among its records what it shall regard as sufficient proof to authorize its declaration that the same, to the extent it may specify, is a public nuisance, or dangerous to life or health; and said Board may thereupon enter in its records the same as a nuisance, and order the same to be removed, abated, suspended, altered, or otherwise improved or purified, as said order shall specify; and shall cause said order, before its execution, to be served on the owner, occupant, or tenant thereof, or some of them, who to said Board may appear most directly interested in its execution, provided said parties, or any of them, are in said District and can be found, and such service can be conveniently made,† and if any party so served (or intended to be according to this law) shall, before its execution is commenced, or within three days after such service or attempted service, apply to said Board, or the President

* See Laws of 1867, Chapter 956, Section 11.

† *See* Laws of 1867, Chapter 956, Section 5; and Laws of 1867, *Chapter 908*, Section 9.

thereof, to have said order or its execution stayed or modified, it shall then be the duty of said Board * to temporarily suspend or modify said order or the execution thereof (save in cases of imminent danger from impending pestilence, when said Board may exercise extraordinary powers, as herein elsewhere specified), and to give such party or parties together, as the case in the opinion of the Board may require, a reasonable and fair opportunity to be heard before said Board, and to present facts and proofs (according to the rules or directions of said Board) against said declaration and the execution of said order, or in favor of its modification, according to the regulations of the Board,† and the Board shall enter in its minutes such facts and proofs as it may receive, and its proceedings on such hearing, and any other proof it may take; and thereafter may rescind, modify or reaffirm its said declaration and order, and require execution of said original, or of a new or modified order to be made, in such form and effect as it may finally determine.‡

Second—Said Board may order or cause any excavation, erection, vehicle, vessel, water-craft, room, building, place, sewer, pipe, passage, premises, ground, matter, or thing (in said district or adjacent waters), regarded by said Board as in a condition dangerous or detrimental to life or health, to be purified, cleaned, disinfected, altered, or improved; and may also order any substance, matter, or thing, being or left in any street, alley, water, excavation, building, erection, place, or grounds (whether such place where the same may be, be public or private), and which said Board may regard as dangerous or detrimental to life or health, to be speedily removed to some proper place; and may designate or provide a place to which the same shall be removed, when no such adequate or proper place, in the judgment of said Board, is already provided. The said Board may require the said Board of Police to execute any of the orders referred to in this act. It shall be the duty of the Board of Police to execute the orders of the said Board of Health, and the said Board of Police may employ the necessary

* Amended, Laws of 1866, Chapter 686, Section 6.

† See Laws of 1867, Chapter 956, Section 12.

‡ Amended, Laws of 1866, Chapter 686, Section 6. Laws of 1867, Chapter 956, Section 10.

persons and means about such execution. Or the said Board of Health, if it shall consider the public health or interests so to require, may execute such orders through its own officers or persons, and means to be engaged by the said Board of Health; and about the execution of the said orders, both the said Board of Police and the said Board of Health shall have, each, as well the authority conferred by this act as all the powers and authority conferred by the fifty-third and fifty-fourth sections of the Metropolitan Police act, passed on the twenty-fifth day of April, eighteen hundred and sixty-four, and of any amendments made to said act or to be made, enlarging such authority; and all powers and authority possessed and exercised by said Board of Police under said act pertaining to sanitary matters, or in conflict with the objects and purposes of this act, shall hereafter be enjoyed, possessed, and exercised by said Board of Health, and the orders of the kind in this section secondly mentioned shall, if the proper person or persons are known to the Board, and can be conveniently found in said District, on whom to make the service, be served upon one or more of the owners, occupants, lessees, or tenants of the subject matter to which said order relates, or upon one or more of the persons whose duty it was to have done what is therein required to be done, as the case may render just and proper in the opinion of said Board;* and if said order is not complied with, or as far complied with as the Board may regard as reasonable, within five days after such service or attempted service, or within any shorter time which, in case of pestilence, the Board may have designated, or is not thereafter speedily and fully executed, then any such order may be executed as herein elsewhere provided in regard to any of the orders of said Board. And if personal service of any aforesaid order cannot be made under this section by reason of absence from said District, or inability to find such persons therein, to be shown by the official certificates of the officer having such order to serve, then service may be made through the mail, or by a copy left at the residence or place of business of the person sought to be served, with a person of suitable age

* *Amended*, Laws of 1867, Chapter 956, Section 5; Chapter 908 *Section 9.*

and discretion, and the expenses attending the execution of any and all such orders respectively shall be a several and joint personal charge against each of the owners or part owners, and each of the lessees and occupants of the building, business, place, property, matter or thing to which said order relates, and in respect of which said expenses were incurred;* and also against every person or body who was by law or contract bound to do that in regard to such business, place, street, property, matter, or thing, which said order requires, and said expenses shall also be a lien on all rent and compensation due, or to grow due, for the use of any place, room, building, premises, matter, or thing, to which said order relates and in respect of which said expenses were incurred; and also,† a lien on all compensation due or to grow due for the cleaning of any street, place, ground, or thing, or for the cleansing (or removal) of any matter, thing, or place, the failure to do which by the party bound so to do, or the doing of the same in whole or in part by order of said Board, was the cause or occasion of any such order or expense.‡ Said Board of Health, its assignee, or the party who has, under its order or that of the Board of Police, acting thereunder, incurred said expense, or has rendered service for which payment is due, and as the rules of said Board of Health may provide, may institute and maintain a suit against any one herein declared liable for expenses as aforesaid, or against any person, firm, or corporation, owing, or who may owe, such rent or compensation, and may recover the expenses so incurred under any order aforesaid.* And only one or more of such parties liable or interested may be made parties to such action as the Board may elect; but the parties made responsible as aforesaid for such expenses shall be liable to contribute or to make payment as between themselves, in respect of such expenses and of any sum recovered for such expenses or compensation, or by any party paid on account thereof, according to the legal or equitable obligation existing between them. And it is hereby declared to be the duty of every owner and part owner and person interested, and of

* See Laws of 1867, Chapter 956, Section 13.

† As Amended, Laws of 1866, Chapter 686, Section 5.

‡ See Laws of 1867, Chapter 956, Section 18.

every lessee, tenant, and occupant of or in any place, water, ground, room, stall, apartment, building, erection, vessel, vehicle, matter, and thing, in said District, and of every person conducting or interested in business therein or thereat, and of every person who has undertaken to clean any place, ground, or street therein, and of every person, public officer, and Board having charge of any ground, place, building, or erection therein, to keep, place, and preserve the same, and every part, and the sewerage, drainage, and ventilation thereof, in such condition, and to conduct the same in such manner, that it shall not be dangerous or prejudicial to life or health. And in any suit in this action, or elsewhere in this act, authorized to be brought, the right of said Board or the Board of Police to make any order or cause the execution thereof, shall be presumed. Any member of the police force, and every inspector or officer of said Board of Health, as the regulations of either of said boards may respectively provide relative to its own subordinates, may arrest any person who shall in view of such member or officer violate, or do or be engaged in doing or committing in said district any act or thing forbidden by this act, or by any law or ordinance, the authority conferred by which is given to said Board of Health, or who shall in such presence resist, or be engaged in resisting, the enforcement of any of said orders of said Board, or of the Board of Police, pursuant thereto. And any person so arrested shall be thereafter treated and disposed of as any other person duly arrested for a misdemeanor. And said Board of Health, having first entered on its minutes, or filed in its records, what it may regard as adequate proof of a violation or resistance, by any person in said District, of any such law, ordinance, or order, may order (by its warrant, under its seal and attested by the signature of its president and secretary, and indicating, as far as conveniently practicable, the time, place, and nature of the offence committed) the arrest of any such person, and such order of arrest shall be of the same effect and shall be executed as a warrant from a justice or judge, duly issued; and the party arrested shall be taken before a magistrate, and thereupon and thereafter shall by all officers be treated as being, and have *the rights* and liability of a party, under arrest by order of the *proper officer* or tribunal, for a misdemeanor of the nature in-

dicated in the said order of arrest. Proofs, affidavits, and examinations as to any matter under this act may be taken by or before one or more members of the Board, or other person, as the Board shall authorize; and the secretary, the sanitary and assistant superintendents, and any member of said Board, shall, severally, have authority to administer oaths in such matters, and any person guilty of wilfully testifying falsely shall incur all the pains and penalties of perjury. Any judge of the Supreme Court of any judicial district, wholly or partly within said Sanitary District, or who is holding court or chambers therein, upon the written application of said Board or its president, to be made by or through its attorney or counsel, may issue his order by him subscribed, for the examination without unreasonable delay, by or before such justice, of any person or persons, and the production of books and papers, or the inspection and taking of copies of the whole or parts thereof, at a time and place within said District, and in said order to be named; and it shall be the duty of such justice to take or superintend such examination, which shall be under oath, and shall be signed by the party or parties examined and be certified by said judge, and with any copies of books or papers be delivered to said Board or its secretary, for the use of said Board. And such examination, and any proceeding connected therewith or under said order, may wholly or in part be had, conducted, or continued by or before any other of said judges, as well as that one thereof who made said order; and in and about the same, every such judge shall have as full power and authority to punish for contempt, and enforce obedience to his said or other order or directions respecting the matter aforesaid (or that of any other judge), as any such judge of the Supreme Court may now have or shall possess to enforce obedience or punish contempt in any case or matter whatever. Such application shall name or describe the person or persons whose examination is sought (and so far as possible the books or papers desired to be inspected), and the matters or points affecting life or health in said District as to which said Board requests the same to take place, and the judge shall, on the proceedings, decide what questions are pertinent and allowable in respect thereto, and shall require the same to be properly answered; but no answer of any person so examined shall be

used in any criminal proceeding. Service of any order of any such judge may be made, and the same proved, in the same manner as the service of either an injunction or of a subpœna may now be made or proved. And it shall be the duty of all said judges to facilitate the early determination of the aforesaid proceedings.

SEC. 15. It shall be the duty of said Board to give all information that may be reasonably requested concerning any threatened danger to the public health, to the Health Officer of the port of New York, and to the Commissioners of Quarantine of said port, who shall give the like information to said Board; and said Board and said Officer and said Quarantine Commissioners shall, so far as legal and practicable, coöperate together to prevent the spread of disease, and for the protection of life, and for the promotion of health, within the sphere of their respective duties; and the authority and power of said Health Officer and Quarantine Commissioners are not by this act affected, save as last aforesaid, any thing herein elsewhere to the contrary nothwithstanding.

SEC. 16. And said Board shall use all reasonable means for ascertaining the existence and cause of disease or peril to life or health, and for averting the same throughout said District; and shall promptly cause all proper information in possession of said Board to be sent to the local health authorities of any city, village, or town in this State which may request the same, and shall add thereto such useful suggestions as the experience of said Board may supply. And it is hereby made the duty of said health authorities to supply the like information and suggestions to said Metropolitan Board of Health. And said Board may take measures, and supply agents, and afford inducements and facilities for general and gratuitous vaccination and disinfection, and may afford medical relief to and among the poor of said district, as in its opinion the protection of the public health may require, and may remove or cause to be removed to a proper place within said district, to be by them designated, any person sick with small-pox or other contagious disease.* And in the presence of great and imminent peril to the public health in said District, by reason of impending pes-

* Amended, Laws of 1867, Chapter 956, Section 3.

tilence, it shall be the duty of said Board to take such measures, and to do and order, and cause to be done, such acts and make such expenditures (beyond those duly estimated for or provided), for the preservation of the public health (though not herein elsewhere or otherwise authorized), as it may in good faith declare the public safety and health to demand, and the Governor of the State shall also in writing approve. But the exercise of this extraordinary power shall also, so far as it involves such excessive expenditures, require the written assent of at least six members of the Board. And such peril shall not be deemed to exist except when, and for such period of time as, the Governor of the State, together with said Board, shall declare by proclamation the same to exist or continue.

SEC. 17. It shall be the duty of said Metropolitan Police Board (and of its officers and men, as the last-named Board shall direct) to promptly advise said Metropolitan Board of Health of all threatened danger to human life or health, and of all matters thought to demand its attention, and to regularly report to said Board of Health all violations of its rules and of said ordinances and of the health laws, and all useful sanitary information.* And said last-named Boards shall, so far as practicable and appropriate, coöperate for the promotion of the public health, and the safety of human life in said District. And it shall be the duty of said Metropolitan Police Board, by and through its proper officers, agents, and men, to faithfully and at the proper time enforce and execute the sanitary rules and regulations, and the orders of said Board of Health (made pursuant to the power of said Board of Health), upon the same being received in writing and duly authenticated, as said Board of Health may direct. And said Police Board is authorized to employ and use the appropriate persons and means, and to make the necessary and appropriate expenditures, for the execution and enforcement of said rules, orders, and regulations; and such expenditures, so far as the same may not be refunded or compensated by the means herein elsewhere provided, shall be paid as the other expenses of said Board of Health are paid. And in and about the execution of any order of the Board of Health or of the Board of Police made pursuant thereto, police

* Amended, Laws of 1867, Chapter 956, Section 2.

officers and policemen shall have as ample power and authority as when obeying any order of or law applicable to the Police Board, or as if acting under a special warrant of a justice or judge, duly issued, but for their conduct they shall be responsible to the Board of Police and not to the Board of Health.

SEC. 18. It shall be the duty of said Board, so far as it may be able without serious expense, to gather and preserve such information and facts relating to deaths, disease, and health, from other parts of this State, but especially in said District, as may be useful in the discharge of its duties, and contribute to the promotion of the health or the security of life in the State of New York. And it shall be the duty of all health officers and boards of health in the State to communicate to said Metropolitan Board of Health copies of their reports, and also such sanitary information as may be useful in said District. And said Board shall keep records of its acts and proceedings as a Board, and of the execution of its orders, so far as reasonably practicable.

SEC. 19. It shall be the duty of said Board, on or before the first Monday of December in each year, to make a report in writing to the Governor of this State, upon the sanitary condition and prospects of said District; and such reports shall set forth generally the statistics of births, deaths, and marriages, the action of said Board and of its officers and agents, and the names thereof for the past year, and may contain other useful information, and shall suggest any further legislative action or precautions deemed proper for the better protection of life and health, as well in other parts of the State as especially in said District. Such annual report may contain the sanitary rules and by-laws adopted by the Board hereby created. And the annual report of said Board shall also contain a detailed statement, under the oath of the Treasurer, of all money received and paid out by said Board, or its Treasurer, and a detailed statement of the manner of its expenditure during the year last past, and of the funds on hand. Said Board may annually have, not exceeding one thousand copies of said report, printed in an economical form, at the expense of said Board, and may distribute the same as shall be best adapted to promote the purposes of this law; but a copy of

said report shall be sent to each duly-organized Board of Health in the State of New York which may have requested such copy, and shall have furnished said Board with a copy of its own annual report.

SEC. 20.* Said Board may enact such by-laws, rules, and regulations, as it may deem advisable, in harmony with the provisions and purposes of this act, and not inconsistent with the constitution or laws of this State, nor the regulation of the action of said Board, its officers and agents, in the discharge of its and their duties, and, from time to time, may alter, annul, or amend the same; and said Board shall, in like manner, for more fully carrying into effect the intents and purposes of this act, annually, on or before the fifth day of May in any year, make, and publish twice a week, for three successive weeks next thereafter, in two daily newspapers published in the city of New York, and in one daily newspaper published in the city of Brooklyn, "a code of health ordinances" for the protection of the public health in said District, to take effect on and after the first day of June next thereafter following, and to remain in full virtue, force, and effect, within said District, until altered, amended, or annulled,† and may at any time alter, amend, or annul the same, or any part thereof, upon publishing the same as altered and amended, or such portion as is so altered and amended, and for a like time as said original ordinances: but, during the year eighteen hundred and sixty-six, such code of health ordinances shall take effect at any time after it shall have been published as aforesaid for two weeks; and every person, body, or corporation, that shall violate or not conform to any ordinance, rule, sanitary regulation, or special or general order of said Board, duly made, shall be liable to pay a penalty, not exceeding fifty dollars for each offence, which may be sued for and recovered by and in the name of said Board, with costs, before any justice or tribunal in said District having jurisdiction of civil actions;‡ and all such justices and tribunals shall take jurisdiction of such actions. And upon the complaint of any citizen of said District

* As Amended, Laws of 1866, Chapter 686, Section 1.
† Amended, Laws of 1867, Chapter 956, Section 10.
‡ See Laws of 1867, Chapter 956, Section 2.

against any person for a violation of any rule, sanitary regulation, ordinance, or order, made to any police justice or magistrate having jurisdiction in criminal cases, such justice or magistrate shall order the arrest of any person against whom such complaint is made, as in any other case of a criminal offence, and, by his warrant, may require any policeman or constable to make such arrest, and may, after such arrest, proceed summarily to try such person for such alleged offence; but no such trial shall be had on any arrest made in the city of New York without sufficient notice thereof being first given to said Board, or its President. And upon an application in behalf of said Board, made before the trial is commenced, the trial of such person, together with the papers, shall be remitted to the Court of Special Sessions, upon which Court jurisdiction to try such persons is hereby conferred; but the right of any person to elect to be tried before a jury as it may now exist, is not affected by any thing herein contained. If such person shall, upon such trial, be found guilty, he or she may be fined in any amount not exceeding twenty-five dollars; and the payment thereof may be enforced in the same manner as is usual in other cases where fines are imposed. Such fines, when collected, shall be at once paid over to the Treasurer of said Board, to the credit of said Board. Reports of all such trials, and of fines imposed for violations of this act, or of the code of health ordinances hereby authorized, shall be made monthly to said Board by the justice before whom such trial is had. But nothing in this section contained shall be construed as in any manner limiting any powers, penalty, and punishment in this act elsewhere conferred.

Sec. 21. Said Board shall cause to be kept a general complaint book, or several such books, in which may be entered by any person, in good faith, any complaints of a sanitary nature which such person thinks may be useful, with the name and residence of the complainant, and may give the name of the person or persons complained of, and the date of the entry of the complaint, and such suggestions of any remedy as may in good faith be thought appropriate, and said books shall be open *to all reasonable* public examination as the Board may authorize; and the Board shall cause the facts in regard to such com-

plaints to be investigated, and the appropriate remedy to be applied.

SEC. 22. Said Board may, from time to time, engage a suitable person or persons to render sanitary engineering service, and to make or supervise practical and scientific sanitary investigations and examinations in said District requiring engineering skill, and to prepare plans and reports relative thereto. And it is hereby made the duty of all boards, officers and agents having the control, charge, or custody of any public structure, work, ground, or erection, or of any plan, description, outline, drawing, or charts thereof, or relating thereto, made, kept, or controlled under any public authority, to permit and facilitate the examination and inspection, and the making of copies of the same by any officer or person thereto by said Board authorized; and the members of said Board, the Sanitary Superintendent or Assistant aforesaid, any of the aforesaid sanitary inspectors, and such other officer or person as may at any time be by said Board authorized, may, without fee or hindrance, enter, examine, and survey all grounds, erections, vehicles, structures, apartments, buildings, and places, in said district, including vessels of all kinds in the adjacent waters, and all cellars, sewers, passages, and excavations of every sort, and inspect the safety and sanitary condition, and make plans, drawings, and descriptions thereof, according to the order or regulations of said Board. Said Board may make and publish a report of the sanitary condition, and the result of the inspection of any place, matter, or thing, in said District so inspected, or otherwise as aforesaid, so far, as in the opinion of said Board, such publication may be useful. And said Board may provide a badge of metal, with a suitable inscription thereon, and direct and require it to be worn, in a position to be designated, by any person or officer under the authority of said Board, at such times and under such circumstances as the rules or by-laws of said Board shall direct. It shall be a misdemeanor, punishable by imprisonment in the county jail, or, in the city and county of New York, in the penitentiary, for not less than one year nor exceeding two years, or by a fine of not less than two hundred and fifty dollars, for any person not an officer under this act, to falsely represent himself as such, with a fraudu-

lent design upon persons or property, or to have, use, wear, or display, without authority, any shield, or other insignia or emblem such as is worn by such officer. But no more than five thousand dollars in any one year shall be expended for sanitary engineering service.

SEC. 23. Said Board shall hold regular and special meetings as frequently as the proper and efficient discharge of its duties shall require; the same to be held (unless it shall be impracticable so to do, or shall be, for good reasons, otherwise ordered) at the regular office of said Board in the city of New York; and the rules or by-laws shall provide for the giving of proper notice of all such meetings to the members of the Board. And all meetings shall in every suit and proceeding be taken to have been duly called and regularly held, and all orders and proceedings to have been duly authorized, unless the contrary be proved.

SEC. 24. It shall be the duty of said Board of Health to aid in the enforcement of, and so far as practicable to enforce all laws of this State, applicable in said district, to the preservation of human life, or to the care, promotion, or protection of health; and said Board may exercise the authority given by said laws to enable it to discharge the duty hereby imposed; and this section is intended to include all laws relative to cleanliness, and to the use or sale of poisonous, unwholesome, deleterious, or adulterated drugs, medicine, or food. And said Board is authorized to require reports and information (at such times and of such facts, and generally of such nature and extent, relating to the safety of life and promotion of health as its by-laws or rules may provide), from all public dispensaries, hospitals, asylums, infirmaries, prisons, and schools, and from the managers, principals, and officers thereof; and from all other public institutions, their officers and managers, and from the proprietors, managers, lessees, and occupants of all theatres and other places of public resort or amusements in said District; but such reports and information shall only be required concerning matters or particulars in respect of which it may, in its opinion, need information, for the better discharge of its duties in said District. And it is hereby made the duty of the officers, institutions, and persons so called on, or referred to, to

promptly give such information and make such reports, verbally, or in writing, as may be required by said boards. And it is hereby further made the duty of all persons, officers, and boards, to make to said Board of Health the reports and returns, and to give the information and afford to said Board the aid and facilities which by law or ordinance they or any of them were required to make, afford, or give to any person, officer, or board, when any powers hereby conferred on said Board of Health were exercised by any other officer or board.

SEC. 25. Such Board shall not be required to make any return or report, or give any information or advice, or do any act which, under the former administration of the health laws in said district, was made necessary or appropriate by reason of the various officers, boards, or agents, by or through which said laws were executed or administered, or the powers hereby conferred were exercised; and said Board may establish reasonable regulations as to the publicity of its records and proceedings; and may publish such information as may, in its opinion, be useful, concerning births, deaths, marriages, sickness, and the general sanitary condition of said District, on any matter, place, or thing therein.

SEC. 26. The department known as the "City Inspector's Department," and every bureau thereof, and so much of the twenty-seventh section of the four hundred and forty-sixth chapter of the laws of eighteen hundred and fifty-seven, as relate thereto, and each and every office in the said District relating to public health, or the duties of which are conferred on said Board, except the Health Officer of the port of New York and the Board of Quarantine Commissioners and its officers, are hereby abolished. And no salary or compensation shall be due or paid by any officer or board whatever, to any officer or agent or board in said District for services to be rendered after this act goes into effect, under any law or ordinance concerning life or public health, except under this act and as authorized by the Board hereby created. And all other boards and officers now existing in said district under or by virtue of any law or ordinance relating to public health, are hereby also abolished; and no compensation shall be paid to

or in respect of the same for any service rendered after this law shall go into effect, save as said Board of Health shall authorize.

SEC. 27. All the sums of money provided or raised for meeting the expenses, compensations, and payments provided by this act, or that may be authorized by said Board (except penalties or other sums received and amounts collected by suit as herein provided), shall be paid into the treasury of the State, and shall constitute a fund, to be, so far as needed, used by said Board in the performance of its duties and discharge of its obligations; and may and shall be paid therefrom, on the order of the treasurer of said Board, as said Board may direct, and shall be applied and paid by the treasurer of said Board only as this act and the regulations of said Board may authorize. And unless this Board shall otherwise specially provide, all salaries and compensation for services and expense shall, so far as practicable, be paid quarterly. And any member or officer of said Board may, if a judge shall so order, be summarily examined upon an order (to be made on application and written affidavit on the oath of three freeholders of said district) requiring such examination, and signed by any justice of the supreme court of the first judicial district, and directing such examination to be publicly made, at the chambers of said justice, at a day and hour to be named, not less than forty-eight hours after personal service of said order, and such examination shall be confined to an inquiry into any alleged wrongful diversion or misapplication of any of said moneys or fund, or any other delinquency charged in said affidavit, touching their office or the discharge or neglect of duty of which it is alleged, in the application for said order, that such member of said Board or said officer has knowledge or information. And such member or officer shall answer such pertinent questions relative thereto as the judge shall direct, and the examination may be continued from time to time as such judge may order, but the answers of the party charged shall not be used against him on any criminal proceeding. The proceedings may be continued before any other judge in said District, and other witnesses, as well as the parties making such application, may, in the discretion of such judge, be compelled to

attend and be examined touching such alleged delinquency; and such judge may publish any refusal to attend such examination or to answer any questions pursuant to his order as for and being a contempt of court. And such examination, affidavit, and orders, shall be filed in the office of the County Clerk of the county of New York. And in regard to this last examination and matters therewith connected, any such judge shall have all the powers and authority conferred in respect to the examination or proceedings mentioned in the fourteenth section hereof, as if herein repeated.

SEC. 28. The Mayor and Comptroller of the city of New York and the Mayor and Comptroller of the city of Brooklyn, together with the members of said Board, created by this act, shall, on reasonable notice from said Board, convene at the office of said Board of Health, as a Board of Estimate, a majority of whom shall form a quorum, and shall annually, on or before the first day of August, make up a financial estimate and statement, including all sums and expenses in arrear, and also any sum borrowed, as herein elsewhere provided for, of the sums required for the year, commencing on the first day of January ensuing, annually (above any sums on hand), for the expenses and proper support, and for the discharge of the duties of said Board, including the proper expenses and disbursements of said Board, and of the members or officers thereof in the discharge of their official duties, and for such other general or incidental expenses as may from time to time, in the judgment of such Board of Estimate, become necessary, with the enumeration thereof. But the sums raised for the expenses of any year shall not exceed one hundred thousand dollars in amount, independently of such sums as may have been expended in the presence of great and imminent peril to the public health in said District by reason of impending pestilence, and independently of the sums herein elsewhere provided, to be paid by or recovered back from any person or corporation.* And the expenses for the remainder of the current year after the passage of this act, to be reckoned at the said rate of one hundred thousand dollars a year, independently of said extraordinary expenses, and of said sums to be

* *Amended*, Laws of 1867, Chapter 956, Section 15.

paid or recovered back, shall be estimated and apportioned to the several cities, counties, and towns in said District as hereinafter provided, and collected in the next annual tax levies. Such estimate shall be accompanied by a written apportionment, made by said Board of Estimate, of the proportions of expenses applicable to and to be paid by each county, city, and town in said District. And in apportioning the salaries of the members of the Board, its officers, agents, and employés, the following rules shall be observed:

1. The salaries and compensation of all members of the board appointed to this Board, other than the Health Officer, from any county, and of all officers, agents, and employés thereof, whose principal sphere of duty shall be in any county, shall be apportioned against and paid by such county.

2. The salary of the Health Officer, and all general, office, contingent, and other expenses of the Board, not included in the first class aforesaid, shall be apportioned against and paid by the respectives counties and towns (or counties to which they belong) in the ratio of the taxable property, real and personal, of each, in said District, according to the assessment under which the last preceding taxes therein were respectively levied.

3. But no apportionment against any county (or town therein), other than the counties of New York and Kings, shall be made under the two foregoing clauses, unless as follows, that is to say: Each other county (and each of said towns) shall have apportioned against it and shall pay all disbursements and expenses arising, caused or ordered therein, to or by said Board, or for salaries, and services, or portions thereof, earned or rendered therein, as the regulations of said Board may provide; but such salaries and services will not include any portion of the salaries of the members of the Board or of its general officers.

4. It is further provided, in respect of each of said counties, that all the expenses caused by any act or any order of said Board, or the execution thereof in or for any particular county or part thereof, shall be apportioned to and be paid by said county or part thereof; and any sums collected in either *shall* be credited to such county or part thereof, unless the *same was* on account of expenses incurred in some other

county, city, or town, and in that event it shall be credited thereto. The said estimate and statement shall, at least ten days before the first day of September in each year, be submitted to the committee of revision, composed of the Presidents of the Boards of Supervisors of the counties of New York, Kings, Westchester, and Richmond, and of the Presidents of the Board of Aldermen of the city of Brooklyn, and of the Supervisors of the respective towns of Newtown, Flushing, and Jamaica, in the county of Queens, who may meet, by a majority thereof, and consider and act upon the said estimate and enumeration, on or before the first Monday of September in each year. If the said committee of revision, on or before the second Monday of said September, shall object in writing to such estimate or apportionment, or any portion thereof, and so in writing, by said date, notify, or cause to be notified, the said Board of Estimate, it shall be the duty of the latter to immediately and carefully revise the same, and consider the said objections. If such committee shall fail to meet, or if said Board of Estimate shall adhere to their original action and estimate, or if they shall modify the same, but they shall not increase the same, then their final determination, apportionment, and action, shall be binding and conclusive upon all concerned. And the Board of Supervisors of the counties of New York, Kings, Westchester, Richmond, and Queens (the expenses in the last-named county to be charged and collected in, and in respect of the property of the towns of, Newtown, Flushing, and Jamaica), respectively,* are empowered and directed, annually, to order and cause to be raised and collected, by tax upon the estates, real and personal, subject to taxation according to law, within the said respective counties and towns, their respective proportions of the sums of money as aforesaid, annually estimated and as apportioned and finally determined upon, as said total expenses and estimate aforesaid. The sums of money so respectively raised, as provided for in this act, shall be, by the proper officers, immediately and without deduction, paid into the Treasury of the State, and shall constitute the separate fund herein elsewhere mentioned and provided, and be used only for the purposes of

* As amended, Laws of 1867, Chapter 956, Section 4.

said Board, and shall be paid from the State Treasury, under such appropriate regulations as shall be agreed upon between the Comptroller of the State, the State Treasurer, and the Treasurer of said Board.

SEC. 29. The said Board may borrow on the credit of this act, and of the funds to be raised thereunder, such amounts (the borrowing of the same respectively to be first approved in writing by the Governor of the State) as may, in the opinion of said Board, be reasonably necessary and proper to enable it to discharge its duties and defray its expenses hereby authorized, up to the time when the requisite funds can be realized, for said Board and purposes, from the taxation and sources herein provided for and authorized; and such moneys so borrowed, with legal interest, shall be a charge upon and shall be repaid by the said counties and cities and towns in the proportion hereinbefore provided, and the amounts thereof shall, in addition to the requisite annual expense to secure a future annual fund, be included or allowed in the next or first annual estimate of the sums required and expenses as aforesaid, and shall, with interest, be included, and the amount, with interest collected in and with the tax in this act provided for, and the same shall go into the said fund, and shall from thence, by the Treasurer of the Board, be paid to or in favor of the parties entitled. And said Board may issue its certificates to those of whom it borrows money, as herein authorized, under its seal, and signed by its President and Secretary, and bearing interest at the rate of not more than seven per cent., and payable at a time not more than eighteen months from the date at which any sum may have been borrowed.*

SEC. 30. † Whoever shall violate any provisions of this act, or any order of said Board, made under the authority of the same or any by-law or ordinance therein referred to, or shall obstruct or interfere with any person in the execution of any order of said Board, or any order of the Board of Police, in pursuance or execution of the order of the Board of Health, or wilfully omit to obey any such order, shall be guilty of a misdemeanor, and be liable to be indicted and punished for such

* Amended, Laws of 1867, Chapter 956, Section 10.

† As amended. Laws of 1866, Chapter 686, Section 2.

offence: and in cases where it was made a misdemeanor to do or omit any act or thing, when any power or authority hereby conferred upon this Board was exercised by any other board or officer or officers, the omission or doing of such, or a corresponding act or thing, which this act requires, or contemplates to be done or forbids, shall in like manner be a misdemeanor, and the offender shall be liable to indictment and punishment for the same. A wilful omission or refusal of any individual, corporation, or body, to conform to any sanitary regulation of said Board, duly made for the protection of life, or the care, promotion, or preservation of health, pursuant to its power or authority, shall be a misdemeanor, and the person or officers guilty thereof shall be liable to indictment and punishment as for a misdemeanor. And all prosecutions and proceedings against any person for a misdemeanor under this act may be had or tried before any judge or tribunal having jurisdiction of any misdemeanor within said district, or within the town, city, or village, within which any such misdemeanor under this act was committed. And any person, corporation, or body, which may have wilfully done or omitted any act or thing which is in this act, or any law or ordinance therein referred to, declared to be, or to subject the party guilty thereof to punishment for, a misdemeanor, shall, in addition thereto, be subject to a penalty of two hundred and fifty dollars, to be sued for and recovered by said Board in any civil tribunal in said district, except that in the marine, or justice, or county courts, no greater amount can be recovered than the extent of the jurisdiction in other civil suits. And any such suits may be against one or more, or each or all of those who participate in the act, refusals or omissions complained of, and the recovery may be against one Board, or any order of the Board of Police, in pursuance or execution of the order of the Board of Health, or wilfully omit to obey any such order, shall be guilty of a misdemeanor, and be liable to be indicted and punished for such offence, and in cases where it was made a misdemeanor to do or omit any act or thing, when any power or authority hereby conferred upon this Board was exercised by any other board or officer or officers, the omission or doing of such, or a corresponding act or thing, which this act requires, or contemplates to be done or forbids, shall in like manner be a misdemeanor,

and the offender shall be liable to indictment and punishment for the same. A wilful omission or refusal of any individual, corporation, or body, to conform to any regulation of said Board, duly made for the protection of life, or the care, promotion, or preservation of health, or the carrying out the purposes of this act pursuant to its power or authority, shall be a misdemeanor, and the person or officers guilty thereof shall be liable to indictment and punishment as for a misdemeanor.* And all prosecutions and proceedings against any person for a misdemeanor under this act may be had or tried before any judge or tribunal having jurisdiction of any misdemeanor within said district, or within the town, city, or village, within which any such misdemeanor under this act was committed. And any person, corporation, or body, which may have wilfully done or omitted any act or thing which is in this act, or any law or ordinance therein referred to, declared to be, or to subject the party guilty thereof to punishment for, a misdemeanor, shall, in addition thereto, be subject to a penalty of two hundred and fifty dollars, to be sued for and recovered by said Board in any civil tribunal in said district, except that in the marine, or justice, or county courts, no greater amount can be recovered than the extent of the jurisdiction in other civil suits. And any such suits may be against one or more, or each or all of those who participate in the act, refusals or omissions complained of, and the recovery may be against one or more of those joined in the action, as the justice of the court shall direct. And the provisions of this section as to the jurisdiction of tribunals, parties, and costs, shall apply to all suits by said Board or its assignees or the assignees of the Police Board under this act. And said Board of Health may institute and maintain in its own name all such suits and proceedings as shall be reasonable, necessary, and proper, for recovering any moneys expended, enforcing the payment of any fine, the punishment for any offence, or in other respects carrying out the objects of this act.† All processes and papers usual or necessary in the commencement and prosecution of actions, or for the collection of money, in suits or proceedings under this act

* See Laws of 1867, Chapter 956, Section 17.

† *Ibid.*, Section 8.

on execution, may be served by any policeman, and in and about such matters, the policeman so engaged shall have all the powers of marshals, and no fees shall be charged by any court, magistrate, or clerk, for the issue of any paper or process, or the performance of any duty in suits under this act. Any civil action brought under or by authority of this act, shall be in the name or by the authority of said Board, and may be brought in any court in said district having jurisdiction in any civil action, to an amount as large as is demanded in such action, and if judgment be rendered for the plaintiff in any amount, costs of the court in which such action is brought shall also be recovered without reference to the amount of the recovery, provided payment was demanded before suit brought, and the defendant or defendants in the action against whom the recovery is had, did not, as the code of procedure authorizes, offer to pay an amount equal to the recovery against him or them, except that in cases where the recovery shall be less than fifty dollars, the amount of costs shall be ten dollars, and in case no recovery is had, the plaintiff shall not pay costs, unless the judge or justice at the conclusion of the trial shall certify in writing that there was not reasonable cause for bringing the action, and in such case the costs shall not exceed ten dollars, unless the amount claimed exceeded fifty dollars. No action shall abate or right of action already accrued be abolished by reason of the expiration, repeal, or amendment of any ordinance, code of health ordinances, or regulation of said Board; nor shall any court lose jurisdiction of any action by reason of a plea that title to real estate is involved, provided the defendant is sought by the pleadings, to be charged in said action on any of the grounds mentioned in this act, other than by virtue of ownership of such real estate. In respect to all proofs and proceedings by said Board, or its agents or officers, under this act, papers filed shall be deemed entered upon or in the minutes of the Board.

SEC. 31. Copies of the records of the proceedings of said Board, of its rules, regulations, by-laws and books and papers constituting part of its archives, when authenticated by its Secretary or Secretary *pro tem.*,* shall be presumptive evi-

* Chief Clerk added, Laws of 1887, Chapter 956, Section 1.

dence, and the authentication be taken as presumptively correct in any court of justice or judicial proceeding, when they may be relevant to the point or matter in controversy, of the facts, statements and recitals therein contained; and the action, proceedings, authority and orders of said Board shall at all times be regarded as in their nature judicial, and be treated as *prima facie* just and legal.

SEC. 32. It shall be the duty of all prosecuting officers of criminal courts and police justices to act promptly upon all complaints, and in all suits or proceedings for any violation of this act, and in all proceedings approved or promoted by said Board, and to bring the same to a speedy hearing or termination, and to render judgment and direct execution therein without delay.

SEC. 33. This act, so far as it relates to the appointment of the Sanitary Commissioners provided for therein, shall take effect immediately, and shall, in other respects, go fully into effect on the first day of March, eighteen hundred and sixty-six.

CHAPTER 686, LAWS OF 1866.

AN ACT to amend an Act entitled "An Act to create a Metropolitan Sanitary District and Board of Health therein, for the Preservation of Life and Health, and to prevent the spread of Disease therefrom," passed February 26, 1866. Passed April 19, 1866, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

[The first five sections of this Act are declared to be amendments of Chapter 74, and are inserted there.]

SEC. 6. Said Board may, by resolution, confer upon the President power to exercise, in the absence of the Board, the authority given in the fourteenth section, to temporarily suspend or modify any order or its execution. And said Board may change or modify any order made under the first clause of the fourteenth section, except that, in cases where no hearing is asked for by the party affected, the order shall not be

so altered as to render its effect more stringent than the original order.*

SEC. 7. This act shall take effect immediately.

CHAPTER 956, LAWS OF 1867.

AN ACT relating to the Metropolitan Board of Health, and to the duties and powers of the commissioners of said board, and the salaries of their subordinates. Passed May 25, 1867; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SEC. 1. The Metropolitan Board of Health shall hereafter have the power of electing persons to perform, *pro tempore*, the duties of Secretary or President respectively, during any time when either of said officers may be absent, or be unable or may refuse to perform their respective duties; and the board may designate one of the clerks in the Secretary's office of said board as "chief clerk," who may perform such duties of the Secretary as shall be assigned him; and papers certified by said chief clerk shall be of the same effect, as evidence and otherwise, as if certified by the Secretary; and all courts shall take judicial notice of the seal of said board and of the signature of its Secretary and chief clerk.

SEC. 2. It shall be the duty of the officers and men of the Metropolitan police force to enforce all of the ordinances and regulations of said Board of Health, and to report all violations of the same; where, in any case the minimum penalty for a refusal to obey, or for a violation of any order, regulation or ordinance of said Board of Health, or any law, is not fixed, the amount recovered in such case shall not be less than twenty dollars; and the judge or justice who presided at a trial where such penalty is claimed, shall, on said trial, in writing, fix the amount (not contrary to said provisions) of said penalty to be recovered, and shall direct such amount so fixed to be and it shall be included in the judgment.

* Amended, Laws of 1867, Chapter 956, Section 10.

SEC. 3. Said Board shall have the same powers in respect of persons afflicted with pestilential or infectious diseases, as are given by the sixteenth section of the seventy-fourth chapter of the laws of eighteen hundred and sixty-six, or otherwise, in respect of persons afflicted with contagious disease, and shall have power to provide and pay for the use of proper places to which to remove such persons, as well as to designate such places; and said Board may cause proper care and attendance for such persons so sick or removed, when it shall appear to said Board that any such person is so poor as to be unable to procure for himself such care and attendance.

[Section 4 is a verbal amendment of Chapter 74, and is incorporated there.]

SEC. 5. Service of any order of said Board of Health shall be deemed sufficient, if made upon a principal person interested in (or upon a principal officer charged with duty in respect of) the business, property, matter, or thing, or the nuisance or abuse to which said order relates; or upon a person, officer or board, or one of the board who may be most interested in or affected by its execution. And if said order relate to any building (or the drainage, sewerage, cleaning, purification or ventilation thereof, or of any lot or ground on or in which such building stands) in the cities of New York or Brooklyn, used for or intended to be rented as the residence or lodging-place of several persons, or as a tenement house or lodging-house, service of such order on the agent of any person or persons for the renting of such building, lot or ground, or for the collecting of the rent thereof (or of the parts thereof to which said order may relate), shall be of the same effect and validity as due service made upon the principal of such agent, and upon the owners, lessees, tenants and occupants of such buildings, or parts thereof, or of the subject matter to which such order relates.

SEC. 6. The word nuisance, as used in this act, shall be held to embrace public nuisance as known at common law, or in equity jurisprudence; and it is further enacted that whatever is dangerous to human life or detrimental to health; *whatever building* or erection, or part or cellar thereof, is over-

crowded with occupants, or is not provided with adequate ingress and egress to and from the same, or the apartments thereof, or is not sufficiently supported, ventilated, sewered, drained, cleaned or lighted, in reference to their or its intended or actual use; and whatever renders the air, or human food or drink, unwholesome, are also, severally in contemplation of this act, nuisances; and all such nuisances are hereby declared illegal; and each and all persons and corporations who created or contributed thereto, or who may support, continue or maintain or retain them, or any of them, shall be jointly and severally liable for or toward the expense of the abatement and remedying of the same; but, as between themselves, any such persons and corporations may enforce contribution or collect expenses, according to any legal or equitable relations existing between them; but nothing herein contained shall annul or defeat any common law liability or responsibility in respect of nuisances. Provided, however, that nothing contained in this act or in the act entitled "An Act to create a Metropolitan Sanitary District and Board of Health therein for the preservation of life and health, and to prevent the spread of disease," passed February twenty-sixth, eighteen hundred and sixty-six; nor in the act amending said last-mentioned act, passed April nineteen, eighteen hundred and sixty-six, shall be construed to confer or as conferring upon the said Board or its officers or agents the power or authority to order the removal, tearing down, or injury of any of the stalls or stands around Fulton or Washington Markets, in the city of New York, which were erected or enlarged to their present size prior to the first day of May, 1866, at any time before the first day of July, 1869; and if, at such date, the erection of a new market or markets, in the place of said markets, shall have been authorized by law, such power shall not be exercised at any time prior to the first day of May, 1870. But it is hereby expressly declared that the said Board shall have and possess full and complete power with reference to the ventilation, drainage and cleanliness of said stands or stalls, and shall have power to order the removal of all stands or stalls which have been erected or enlarged upon any street or sidewalk in said city since said first day of May, 1866, or shall hereafter be so erected; and that the power given to said Board over obstruc-

tions in the streets or on the sidewalks by existing laws is hereby expressly reaffirmed, except as herein modified; and the said Board are hereby directed to propose and submit to the next Legislature plans and recommendations for the building of one or two new markets, whichever they shall deem necessary, to replace the Fulton, Washington and West Washington Markets in said city.

1. Said Board of Health may institute and maintain, in any court in the Metropolitan Sanitary District (having jurisdiction in suits where the amount claimed exceeds one thousand dollars), a suit or suits for the abatement or remedying of any of the aforesaid nuisances, either completely or as fully as may be thought necessary by the court. And said Board shall also have, in said District, all common law rights to abate any nuisance without suit, which can or does, in this State, belong to any person whatever. And all costs collected in any such action or proceeding shall be paid over to the Treasurer of the Board and accounted for by him.

2. To all such suits the provisions of chapters seventy-four and six hundred and eighty-six of the laws of eighteen hundred and sixty-six, relative to jurisdiction, costs, and parties, shall be applicable; and the courts shall allow the plaintiff, at any proper stage of the case, to amend, by joining other parties defendant; and no suit shall be dismissed or defeated by reason of there being other persons interested therein or concerned in causing, creating, or maintaining the nuisance complained of in such suit where such person is not a necessary party to the suit.

3. Such suit shall be tried as an issue of law, and without a jury, unless some defendant shall, in his answer, or by notice in writing to be served on the plaintiff's attorney within five days after service of said answer, demand a trial by jury on some question of fact, to be in said answer or notice distinctly stated, and in respect of which a right of trial by jury exists; and if any such demand be so made and served, the case shall, as to all the defendants, be placed on the calendar of jury trial cases, and when reached for trial, if issues of fact for the jury have not before been settled, the presiding judge may state in writing the issues of fact to be submitted to the jury, or the trial shall proceed upon the material issues of fact made by the

pleadings without such written statement of issues; and the judge who presided at the trial (or some judge of the same court, if said judge be unable) shall, on receiving the verdict, or as soon thereafter, and at the same term, if possible, settle and cause to be entered the proper judgment in said suit.

4. If the judgment be that any nuisance may be abated or remedied, in whole or in part, said judgment shall contain sufficient directions for its proper execution, and the judge shall, from the pleadings and from the evidence given at the trial, find and state what proportion of the expense of such execution shall be paid or be borne by each or all of the defendants, jointly or severally; and if, in the opinion of the court, any part of or all the expense of such execution should be borne by said Board of Health, or the execution of such judgment should be made by said Board, or under its direction, said judgment shall contain the appropriate directions in respect to such last-named payment or execution. And the court may also adjudge the Board to pay or advance such proportion of the expenses of executing such judgment, as the judgment shall not direct to be paid by some one or all of the defendants. Said judgment, if against any defendant, shall, on its face, state that it will be a lien on the real property, corporeal hereditaments of such defendant or defendants respectively, to which the said nuisance shall have related, till his or their proportion of such expenses of execution are satisfied, or the lien thereof shall be otherwise discharged according to law.

5. Any person prejudicially affected by the lien of any such judgment may, on eight days' notice to said board, make a motion before any judge of the court in which said judgment was rendered, for an order that the lien of such judgment be discharged as to all or any specific property set forth; and if it shall appear to such judge, on the hearing of such motion, that such eight days' notice of such motion has been given to the Board of Health, and that such judgment has been executed and the expenses paid, which the lien sought to be discharged was designed to secure; or if a proper or sufficient undertaking or bond, with sureties, shall be given for the payment of such expenses; or if said Board of Health, through its attorney *or counsel*, shall in writing consent to the discharge of

the last-named lien, as to any or all property referred to, or as to one or more defendants, then said judge may order said lien discharged of record by the proper officer, to the extent and as to the person or persons that the order shall specify; and it shall be so discharged; and such order and the moving papers shall be filed with the proper clerk, as the judge shall direct.

6. No appeal by any party defendant shall stay the execution of any judgment aforesaid, except to the extent, in reference to the persons, and on the conditions the judge who tried the case, if he can be conveniently applied to, or, if not, some other judge of the same court, shall, on the settling of the judgment, or on motion, and on four days' notice to said Board of Health, and with due reference to the public interests involved, specially order; and if no such order shall be made, the judgment shall be executed, notwithstanding any appeal, undertaking, or security, and without any liability on the part of any person (other than as herein elsewhere provided, in respect of said board), by reason of any damages or consequences growing out of the execution of such judgment, whether the same be reversed or not. All appeals by the defendant from any judgment in the said abatement suits shall be taken within ten days after notice in writing to the defendant or his attorney, of the entry of the judgment therein, and the judge who tries the case may, in his discretion, and without security, but only for the period of the said ten days, order a stay as to the execution of the judgment; and within said period of ten days an undertaking or security on appeal (to stay execution of the judgment, as herein provided) must be filed, the same to be otherwise of the form and obligation as is required in ordinary appeals from judgments, but which shall also be conditioned for the payment of the appellants' adjudged share of the expenses of executing such judgment as the court may have estimated and said judgment may have stated, or (i. not estimated in said judgment), as the judge, on application and three days' notice to said board, shall estimate the same, in conformity with the judgment, for the purpose of such security on appeal. But, pursuant to any order, or otherwise, *the execution of* any judgment against the defendants shall not *be delayed* beyond said ten days, if within that period the

proper undertaking or security on appeal, approved by the judge, has not been filed, and the appeal perfected, as herein provided; and the judgment may state the estimated expense that will have to be paid by any party toward executing said judgment. But said board may appeal in any such case, or any case to which it is a party, within ten days after the entry of any judgment, and without giving any security; such appeal shall be effectual, and shall operate as a stay on the judgment, or upon the part thereof in respect to which said Board appeals.

7. In any such abatement suit said Board may join a cause of action for any penalty or penalties that may have been incurred by either of the defendants, by reason of, or in connection with, the nuisance complained of, or by reason of any omission or refusal of any defendant to obey or comply with any order of the Board of Health touching such alleged nuisance, and have the proper provision in any judgment therefor against one or more of the defendants. No motion for a new trial on a case made shall be entertained in any such abatement suit, except as a part of and as arising upon the papers upon a regular appeal to a general term of the court, and to be heard therewith.

8. The judgment of the general term, if it shall to any extent direct any change in the judgment appealed from (but shall direct, or allow or fail to forbid the judgment in part to be executed), shall also contain the requisite specific provisions, so that the judgment as modified may be executed, and the due proportion of the expenses of such execution may be assessed on the defendants respectively, or on said Board, as the general term may adjudge. Upon any appeal from the general term to the court of appeals, in such abatement suit, the provisions hereof as to appeals from the judgment to the general term, and as to security on appeal, shall, in all particulars, including the length of time given in which to take an appeal, apply; and no change in the code of procedure, or otherwise, hereafter to be made, though in subject matter applicable to said abatement suits, shall be construed to modify the aforesaid or other provisions of the health laws, as to any suits thereunder, unless such act shall specifically declare such modification to be intended.

9. Upon the execution in whole or in part of any such judgment (if said Board shall, as it is hereby authorized to do, decide the public interest to demand only execution in part thereof), a statement of the expenses of such execution shall be made, and such expenses shall be therein apportioned not contrary to any provisions of said judgment; and upon the same being verified by the oath of some person who by due authority, took part in or had charge of the execution of such judgment, or by some officer of said Board, such statement, entitled in the case, may be filed or given to the proper clerk to be filed, with such judgment; and notice of such filing or delivery, and a copy of such statement, shall be given to the attorneys of the defendant in the suit, or to the defendants themselves, or to some one of the joint defendants; and unless within ten days after any such notice, such defendants shall give due notice in writing, to said Board or to the person who, as assignee or by order, executed such judgment or is entitled to payment of such expense (in case it was not executed by said board), of a motion, and serve therewith copies of affidavits to correct such statement in particulars to be mentioned, and separately and clearly stated in such affidavit, such statement aforesaid shall be, in all suits and proceedings and tribunals, and at all times, deemed and taken to be final, conclusive, and correct; and no formal defect in such statement shall in any wise vitiate the same. And on any hearing of such motion, any party in interest, or said Board, may read affidavits in support of such original statement; and the finding of any judge on the hearing of such motion, as to the said statement of such expenses and other matters in such motion involved or statement contained, shall be final and conclusive, and not subject to appeal; and such finding or statement as modified by such finding, when filed, shall be of the same effect as such original statement would have been, had no motion in regard thereto been made; and for the purpose of an execution for such expense, and creating a lien under any judgment, such statements and finding or modified statement shall be regarded as a part of said judgment, and the lien thereof shall extend to any amounts stated in such final statement and finding.

10. For the proportion and amounts, as authorized by such *judgment*, and contained in such finding or in such statement

or modified statement, when either of the same shall have become final as aforesaid, said Board or any assignee of such Board, or any other person who has executed such judgment, or has otherwise a right to receive the expense of so doing (or the portion thereof that may be due from any defendant), shall have execution, on such execution being allowed, ex parte, by a judge of the court in which any judgment was recovered (and such execution, shall, in due form, be allowed, by any such judge); such execution to be against any one or more defendants or joint defendants for the recovery of any amount due from such defendant or defendants, which the party claiming such execution is entitled to receive; and such execution, except as herein especially provided, shall be of the same effect and form as any execution duly issued pursuant to any judgment. But no execution shall be issued against any defendant for less than the whole sum due from such defendant, or for less than he shall be liable to pay in such suit; but any sum adjudged against any defendants or defendant, in any such abatement suit for penalties, costs, or for other cause than the expense of the abatement or remedying of such nuisance, may be collected by separate or other executions (than those authorized for collecting such expense), to be issued in due course of law.

11. In any abatement suit aforesaid, the court, or a judge thereof, may issue and enforce an appropriate preliminary injunction, whenever it shall be asked for pursuant to an order of said Board of Health, by affidavit, and there shall appear to such judge to be reasonable cause therefor; and such injunction may also be granted whenever it shall be made to appear to the court or a judge thereof, by affidavit, that such injunction is needed to prevent any illegal act, conduct, or business aforesaid, or its continuance, or to prevent serious danger to human life, or serious detriment to health, or great public inconvenience touching any matter or thing to which this act or the health laws aforesaid relate. And in any such injunction order the court may require any building, erection, or grounds, to be put in a condition that will not be dangerous to the life or detrimental to the health of any occupant, before the same shall be leased, or rented, or occupied, or before any rent or compensation shall be collected for the rent or use of the whole or any

portion of the same. In any such injunction order, and also in any judgment in any abatement suit, the judge or court may require the tenants, lessees, and occupants (or either or any of them) of any such building, erection, or grounds, to pay the rent thereof (or compensation therefor) due or to grow due, to said Board, and said Board to collect and receive the same, and to apply said rent to pay the expenses of putting any said building, erection, or ground, in a condition, that will not be dangerous to the life or detrimental to the health of any present or future tenant, lessee, or occupant, or of any other persons; all such collections and payments to be made in such manner, to such extent, and on such conditions, as any such order or judgment may provide; and every such payment to said Board, and the receipt of its Treasurer for such rent or compensation, shall be as effectual to protect any person who has made the same, and every such tenant, lessee, and occupant, and all his and their rights under any lease or occupation, as if such payment had been made to and such receipt had been given by any lessor or owner, or any proper claimant of any such rent or compensation, who had, but for such order or judgment, the right and authority to receive the same. (But no undertaking or security shall be required or necessary, on the part of said Board, as a condition of granting such injunction, or the same being effectual; and in any final judgment in such suit there may be enjoined whatever, if about to happen or threatened, would be the proper subject matter of a preliminary injunction.) And when the public interest seems to the court to require a speedy trial or hearing of any such suit or appeal therein, it shall be the duty of any judge of any court aforesaid, or of the court to whom application by said board may be properly made, to cause such suit or appeal to be brought to a speedy trial (and before it would otherwise be reached for trial or argument in due course on the calendar), as the judge or court may by special order direct.

12. In so far as any judgment may be directed to be executed at the expense of said Board of Health, or by any party defendant at his own expense, and shall by such party defendant be so executed, the expense of such execution shall not be *stated or* embraced in the aforesaid statement or finding of *expenses;* but if any part of the execution aforesaid, which any

party should have borne or paid, shall (by reason of the delay, refusal, or defective act or execution of such party, or any other cause) be paid, borne, or incurred by said Board of Health, in and about the execution of such judgment, then the said latter expenses of said Board may be embraced in said statement and finding, and collected by execution as aforesaid.

13. Whatever expenses said Board of Health may lawfully and properly incur in the execution of any judgment aforesaid, or in executing, or in connection with its own orders, made in good faith, or in and about the discharge, in good faith, of its supposed duties, or in satisfying any liability or judgment it may have in good faith incurred or suffered by reason of its acts done in good faith as aforesaid, or in satisfying any claim against its officers or subordinates, arising from their acts in the discharge in good faith of their supposed respective duties, shall, so far as established, be paid out of its fund or other moneys, and shall be apportioned, assessed, collected, and paid as is provided in the health laws aforesaid in respect to the expenses of said board, and such sums paid or recovered under this act, shall not be included in or considered as a part of that class of the expenditures of the Board in respect to which there is or may be a specific limitation as to amount.

SEC. 7. No member, officer, or agent of said Board of Health, and no person (but only the Board itself) shall be sued or held to liability for any act done or omitted by either person aforesaid (in good faith and with ordinary discretion), on behalf of or under said Board, or pursuant to its regulations, ordinances, or said health laws. And any person whose property may have been unjustly or illegally destroyed or injured, pursuant to any order, regulation, or ordinance, or action of said Board of Health, or its officers, for which no personal liability may exist as aforesaid, may maintain a proper action against said Board for the recovery of the proper compensation or damage, to be paid by and from the funds of said Board of Health. Every such suit must be brought within six months after the cause of action arose, and the recovery shall be limited to the damages suffered. And there shall be the same right to sue and recover against said Board (the amount to be paid from its funds), when no security or undertaking is given by the

Board on appeal, or the granting of an injunction, that would have existed (pursuant to the foregoing provisions), to sue and recover of any party to such undertaking, had the same been duly executed by any such party and board, and duly approved and filed, according to the practice in analogous cases.

SEC. 8. Said Board of Health may sue or be sued in and by its proper name, as "The Metropolitan Board of Health," and not in or by the name of the members of said Board or any of them; and service of all process in suits and proceedings against or affecting said Board, and other papers, may be made upon the President of said Board, or upon its Secretary, and not otherwise; except that, according to usual practice in other suits, papers in suits to which said Board of Health is a party, may be served on its attorney. But when a party plaintiff or defendant to a suit (or otherwise designated in any manner, in its capacity as a Board of Excise), said Board of Health shall be designated in said capacity and said Board of Excise shall hereafter be known and described as "The Metropolitan Board of Excise," and only by such last name shall it or its members sue or be sued.

SEC. 9. No preliminary injunction shall be granted against the Metropolitan Board of Health, or of Police, or its or their officers, or against the commissioners of said Boards in their capacity as a Board of Excise, or against the last-named Board, except by the supreme court, at a special or general term thereof, after service of at least eight days' notice of a motion for such injunction, together with copies of the papers on which the motion for such injunction is to be made.

SEC. 10. The sixth section of the six hundred and eighty-sixth chapter of the laws of eighteen hundred and sixty-six, is hereby amended by substituting the word "burthensome" in place of the word "stringent," therein contained. The "code of health ordinances," mentioned in said six hundred and eighty-sixth chapter, shall hereafter be designated as the "code of sanitary ordinances," and the same may embrace all matters and subjects to which, and so far as, the power and authority of said Board of Health extends; nor shall any thing in said acts be construed as limiting their application to the *subject of* health only; and said ordinances may respectively

be designated as, or include, rules and regulations. Hereafter said code shall be published once only in any week, and for two weeks only in the aggregate, in any one year, and it shall not be necessary to publish any portion of said code which has remained unaltered since its last previous publication. The twenty-ninth section of the seventy-fourth chapter of the laws of eighteen hundred and sixty-six shall be deemed applicable to any case hereafter to arise, when said Board may find it necessary and proper to borrow money to discharge its duties and defray its expenses, as in said section more particularly mentioned; but no more than twenty-five thousand dollars shall be borrowed by virtue hereof, or under said section, in any one year. The right given in the seventy-fourth and six hundred and eighty-sixth chapters of the laws of eighteen hundred and sixty-six, to said Board of Health, to sue for and recover, in its own name, any penalties, shall embrace any and all penalties that might, before the acts aforesaid, have been sued for or collected by the mayor, aldermen, and commonalty of the city of New York, the city of Brooklyn, or any person (or body in either of said acts referred to), under or in respect of any law or ordinance, the power or authority given or conferred, or purporting to be exercised by which is now possessed by said Board of Health.

Sec. 11. If any person shall knowingly make to said Board of Health or any officer thereof any false return, statement or report relative to any birth, death or marriage, or other matter concerning which a report or return may be legally required of or should be made by such person: or if any member, inspector or officer, or agent of said Board of Health shall knowingly make to said Board of Health any false or deceptive report or statement (in connection with his duties), or shall accept or receive, or authorize or encourage, or knowingly allow any other person to accept or receive any bribe or other compensation as a condition of or an inducement for not faithfully discovering and fully reporting or otherwise acting according to his duty in any respect; then any and every such person shall be deemed guilty of a misdemeanor, and shall be liable to be for such crime indicted, tried and punished according to law, and shall, in addition, forfeit all compensation due or to grow due from said Board.

SEC. 12. Upon the application of any party in interest in any matter pending examination before said Board of Health, by affidavit stating the grounds of such application to any judge of a court of record, and asking that any person or persons therein named shall appear before said Board of Health, or any person taking or about to take such examination, at some time or times and place, to be stated in said affidavit, it shall be the duty of such judge, if he discovers reasonable cause so to do, to issue his order requiring such person or persons named to appear and submit to such examination as and to the extent such order may state, at the times and places to be in said order named; and such order, to be signed by such judge, may be served, and shall in all respects be obeyed as a subpœna duly issued; and a refusal to submit to the proper examination may be punished by such judge, or by any judge of such court, as a contempt of court, upon the facts as to such refusal being brought before any such judge by affidavit.

SEC. 13. The said Board, its assignee, or any person acting under its authority, in executing any order of said Board, shall have a lien for the expenses necessarily incurred in the execution of said order, and said expenses shall be a lien upon the land and buildings upon or in respect of which, or either of which, the work required by said order has been done, or expenses incurred, which lien shall have priority over all other liens and incumbrances, except taxes and assessments. But no such lien shall be valid for any purpose till the said Board or person shall have caused to be filed in the office, or with the officer, where notices of mechanics' liens are now or may be hereafter required to be filed, a notice containing the same particulars required to be stated with reference to mechanics' liens, with the further statement that the expense has been incurred in pursuance of an order of said Board, and giving its date. Upon such filing the said officer shall make the same entry on the book or index in which mechanics' liens are entered as he is required to enter in cases of mechanics' lien, together with a reference to said order by date; and thereafter the same shall, except as herein elsewhere provided, have the same effect in all respects as a mechanics' lien; and all proceedings with reference to said lien, its enforcement and dis-

charge, shall be had and carried on in the same manner as similar proceedings with reference to mechanics' liens are now or may be hereafter by law had or carried on. The filing of such statement shall, as to all persons, have the same effect as filing of notice of mechanics' lien; and unless within two months after actual notice of such filing, proceedings are taken by the party against whom or whose said property the lien is claimed to discharge such lien, the filing shall, as to all persons having such actual notice, become conclusive evidence that the amount claimed in such statement, with interest, is due, and is a just lien upon said land and building. Such lien shall continue to be a lien for the space of four years from the time of filing such statement, unless proceedings are in the meantime taken to enforce or discharge the same, which may be done at any time during its continuance. In case proceedings are so taken, it shall remain a lien until the final termination of such proceedings; and if such proceedings shall result in a judgment for the amount claimed in such statement, or any portion thereof, such judgment shall, to such extent, be a lien in the same manner, and from the same time, as said statement.

Sec. 14. The said Board of Health may from time to time fix and define the time of making, and the form of returns and reports to be made to said Board by the coroners of the counties of New York and Kings, in all cases of *post-mortem* inquests, or viewing of dead bodies held by them or any of them; and the said coroners are hereby required to conform to the directions of said Board in the premises, and it shall be the duty of every coroner at once, and before holding any inquest, upon being called upon to hold an inquest as aforesaid, or notified thereof, to immediately transmit and cause to be delivered to the Secretary of said Board of Health, written notice of the fact of such call for holding inquest, in which shall be stated every particular then known to said coroner as to said call, the body, the place where it is, and the reported cause of death. If at any time said Board, or the Sanitary, or Assistant Sanitary Superintendent, shall deem the protection of the public health to demand, it may (so soon as the coroner's jury shall have viewed the dead body, and an autopsy thereof

shall have been made, provided the coroner deems the same necessary) order the immediate burial of any dead body, or if he or it deems that the public health demands an immediate removal of said body from the place of death to another place for inquest, may likewise at any time order said immediate removal, and shall have power to cause all orders to be obeyed and executed.

SEC. 15. The seventy-fourth chapter of the laws of 1866, is amended, by substituting in the place of the words "one hundred thousand dollars," where the same occurs in the twenty-eighth section thereof, the following words, viz.: "one hundred and fifty thousand dollars." The salary of the Sanitary Superintendent shall be five thousand dollars per annum; of the Assistant Sanitary Superintendent thirty-five hundred dollars, and of the sanitary inspectors not less than eighteen hundred dollars, nor more than twenty-five hundred dollars; and said board may divide said inspectors into classes, and fix the salaries of each class within said limits. Said Board may appoint such number of assistant sanitary inspectors as they shall deem necessary, and fix their salaries at an amount not exceeding twelve hundred dollars each. And all sums that may be expended in executing any order, resolution or regulation of said Board of Health, or in executing any judgment that may be recovered by the Board, or in paying any sums that may be recovered against the Board of Health, shall be deemed sums provided to be paid by and to be recovered back from some person or corporation, within the meaning of the said last-named twenty-eighth section.

SEC. 16. By reason of the additional duties to be performed by the several commissioners of said Board of Health, in their capacity as commissioners of excise, the salary of each thereof, except the health officer of the port of New York, is increased by the sum of fifteen hundred dollars, and a reasonable compensation or salary in addition to what has been heretofore authorized may be paid by said Board to any of its officers or employés whose labors are for that reason increased; the said increase of salary to date from the first day of December, one *thousand* eight hundred and sixty-six, and the same shall be *paid from* the moneys received for licenses. The provisions

of the seventy-fourth chapter, of the laws of 1866, so far as the same relate to the calling and holding of meetings, or a quorum thereat, the duties of the Secretary, the dismissal and control of officers and agents, the designation and use of a seal, the authentication and presumptive effect and legality of the records, papers and acts of the Board, shall be held to apply to said Board and the commissioners named in said act, and to their doings, in their capacity as a Board of Excise. Said Board of Excise shall make a like annual report as is required of said Board of Health.

SEC. 17. Any wilful omission or refusal to obey or conform to any part of this act, or any wilful resistance of or refusal to obey any order, regulation or ordinance made in pursuance of this act, shall be subject to the same punishment, penalty and liabilities, both civil and criminal, as if such omission, refusal or resistance was in respect of either of the acts mentioned in the tenth section hereof, or in respect of an order, regulation or ordinance made in pursuance of either of the last-named acts.

SEC. 18. When any order of said Board of Health has been executed, or so far executed as said board may require, the expenses of such execution, giving in general terms the items of such expense, and the date of execution, shall be stated in an affidavit, and the same shall be filed among the records of said board, with the order so executed; and said Board shall take care, by or through some proper officer, or otherwise, that the expenses of such execution be so stated with fairness and accuracy; and when it shall appear that such execution, or the expenses thereof, related to several lots or buildings belonging to different persons, said affidavit shall state what belongs to or arose in respect to each lot of said several lots or buildings, as said board or its authorized officer may direct; and the correctness of such appointment or expenses, as stated in any such affidavit, shall not be called in question or reviewed elsewhere than before said Board; but said Board may revise and correct the same, as said Board shall think truth and justice may require.

Whenever the expenses attending the execution of any order of said Board of Health (and all such expenses are to be

a lien and charge, as said original act specifies as to certain expenses), may be made the subject of a suit by said Board, or its assignee (or the person having a right to recover such expenses), there may be joined in the same suit a claim or claims for any penalty or penalties for violations of either of said chapters, or of this act, or for the violation or omission to perform or obey said order (or any prior order of said board), or for the not doing of that or any portion of that, for the doing of which said expenses arose or were incurred; and said Board may make an assignment of the claim for any such penalty or penalties, to enable the claim for the same and the claim for said expenses to be joined in the same suit; and the proper joint or several judgment may be had against one or more of the defendants in the suit, as they or either of them may be liable in respect of both said claims, or either or any of them.

And said expenses of executing said order, and the expenses of executing any judgment in any abatement suit herein provided for, and the several judgments that may be recovered hereunder, or otherwise, for any such penalty or expenses (or both such penalty and expenses together), until the same are paid or discharged, shall be (a lien as other judgments, and also) a lien and charge upon rent and compensation due or then maturing from any tenant or occupant of the building, lots and premises, or the parts thereof to which any such order or judgment relates, or in respect of which any such expenses were incurred.

And such expenses and judgments shall respectively be liens on the several compensations mentioned, and under the circumstances stated (as to certain expenses being such lien) in the fourteenth section of the seventy-fourth chapter of the laws of eighteen hundred and sixty-six, as if the provisions there contained were here repeated. For the purpose of rendering such lien and charge more effectual to secure payment of any such expenses or judgment, from any rent or compensation aforesaid, the following proceedings may be taken:

1. The Board of Health, or any person owning any such judgment, or the claim for any such expenses, or having a right to receive payment therefor, may serve a copy of the order under or by reason of which such expenses were authorized or in-

curred (with a copy of any affidavit, stating the expenses of the execution of such order), or if the claim be a judgment, may serve a transcript of such judgment (and any affidavit showing the expense of its execution, if there be any) upon any person or corporation owing, or who is about to owe, any compensation (in respect of any matter or thing in said fourteenth section mentioned), or owing or about to owe any rent or compensation for the use or occupation of any grounds, premises or building, or any part thereof, to which said order or judgment relates, and in respect of which such expenses or the expenses embraced in said judgment related or were incurred; and may, at any time of such service, demand in writing that such rent, or any such compensation (to the extent of said claims for said expenses, or of any such judgment or expense in executing the same), shall, when such rent or compensation becomes due and payable, be paid to the Treasurer of said Board of Health.

2. After the service of the papers aforesaid and such demand, any tenant, lessee, occupant or other person owing or about to owe, any such rent or any such compensation, shall, when such rent or any such compensation shall mature or become payable, pay the same, and from time to time any other amount thereof, as the same may become due and payable (or so much thereof as is sufficient to satisfy any such judgment or claim for expenses or both, so served), to the Treasurer of said Board of Health; and such Treasurer shall give his receipt as Treasurer therefor, stating on account of what order or judgment and expenses the same has been paid to him and received; and the amount so received shall be deposited in some bank in the city of New York, where other funds of the Board are kept, to the special account of such Treasurer.

3. Any person or corporation refusing or omitting, as herein directed, to make such payment to said Treasurer, after service of the paper and demand aforesaid, as herein required, shall be personally liable to said Board of Health, or to the party owning any such claim for expenses or judgment (if not belonging to said Board), for the amount that should have been paid to said Treasurer, according to the provisions hereof, and may by such party (or Board, if the owner aforesaid) be sued therefor; and such persons shall not in such suit dispute or

call in question the authority of said Board of Health to incur or order such expense, or the validity or correctness of such expenses or judgment in any particular, or the right of the party making said demand, or his assignee, to have the same paid from such rent or compensation. But the receipt of such treasurer for any sum paid him as aforesaid, shall, in all suits and proceedings, and for every purpose, be as effectual in favor of any person holding the same as actual payment of the amount thereof to the proper landlord, lessor, owner, or other person or persons who would, but for the provisions of this statute, or said service and demand, have been entitled to receive the sum so paid to such Treasurer, could or would have been. And it is further expressly declared, that no tenant or occupant of any lot, building or premises, or his or their assignee or lessee, shall be dispossessed or disturbed, nor shall any lease or contract, or rights, be forfeited or impaired, nor any forfeiture or liability be incurred by reason of any omission to pay any landlord, owner, lessor, contractor, party or other person, the sum so paid to said Treasurer, or any part thereof.

4. The Treasurer of said Board of Health shall retain said money so paid him until twelve days after it shall be made to appear to said Board of Health, or some proper officer thereof, by satisfactory affidavit, that the party or parties, or his or their agent for the collection of any such rent or compensation, who (but for the provisions hereof would have been entitled to receive the same), has had written notice of such payment being made, to said treasurer, and a copy of his receipt therefor; and if at the end of said twelve days, the party or parties aforesaid, so notified, have not instituted suit to recover said money, as hereinafter provided, then the same shall, by said Treasurer, be paid toany person who may own or have the right to recover the amount of the judgment or the claim for expenses so served as aforesaid (or so much thereof as the party may be entitled to), or on account of which the money was paid to said Treasurer; and after such payment by the Treasurer, the party or parties aforesaid (who failed to sue) shall have no right to demand or receive any such money unless they shall, within six calendar months from the expiration of said twelve days, in a suit allege that they had no

notice of such payment to said Treasurer, and shall, on the trial of such suit, prove said allegation, and also that they were not liable to pay the said claim for expenses or the said penalty or judgment, and that the said Board had not jurisdiction to order the expenses aforesaid, on account of which the money was so paid to said Treasurer, or on which any such judgment was obtained; and in case of a recovery in such suit it shall be only to the extent such parties were not so liable; and in such suit any person or persons who may have received said money from said Treasurer or Board shall, by the plaintiff, be made a party defendant; and if the plaintiff shall recover such money, or any part thereof, said Board of Health shall be entitled to any equitable judgment in such suit which the court may see fit to direct for recovering said money back, or any part thereof, from such co-defendant, which had been paid to him by said Treasurer.

5. In case any suit shall be brought under the last subdivision of this section, or before the expiration of the said twelve days, said Board of Health (but not said Treasurer) shall be joined at a party defendant; and any person or persons, other than said Board, claiming the right to receive said money on account of said order, expenses or judgment, or who has received the same, shall also by the plaintiff be made parties defendant; and no answer need be made by said Board (except at its option, or if it be not a claimant as having paid or incurred said expenses, or as being the owner of said judgment), further than the allegation that it holds said money so paid, and is ready to pay it over, as the result of the suit may render it proper, or to pay an equal amount to the plaintiff, if adjudged to do so; and said money shall be held by said Board pending said suit (if not paid over before suit brought as aforesaid), and provided said suit be diligently prosecuted to judgment; and on its conclusion the Board of Health shall cause the money, if still with its treasurer, or the proper amount from its funds, to be paid as the determination of the suit may render proper; and no costs in any suit in this section mentioned shall be recovered against said Board of Health. But to entitle a plaintiff to recover in any such last-named suit, he must make the same proof and establish the same fact as is required to enable him to recover in any aforesaid suit in this

section mentioned, except as to his not having had notice of such payment to such Treasurer. The Treasurer shall obey the directions of said Board, and shall not be personally liable (unless for his own fraudulent acts) for or in respect of any such money or facts aforesaid to any one, but said Board of Health shall pay such sum as may be finally adjudged against it in any suit.

SEC. 19. Said Board of Health is hereby authorized and directed to employ such competent person or persons to reduce to the form of a code all the laws applicable to said Board or such parts of them as are deemed appropriate to be enforced, and to add thereto such Bprovisions as said oard may deem needful; and also to prepare a complete code of ordinances appropriate to be enacted and put in force in said District; and also such general regulations, and blank forms, as in the opinion of said Board are requisite in the discharge of its duties; the same to be reported to the Legislature as early as they can be prepared and perfected, and not later than the opening of the session in eighteen hundred and sixty-nine; and said Board may incur the necessary expense for the purposes aforesaid, and said Board may have such report printed.

SEC. 20. No law heretofore enacted or hereafter to be enacted shall be construed to repeal or modify any portion of this act or of any law relating to said Board of Health, or to the members of said Board, their duties or powers as such or as a Board of Excise, unless and except in so far as said law shall expressly thereto refer, and repeal or modify the said laws.

SEC. 21. The Board of Metropolitan Police shall have power to erect, operate, supply and maintain, under the general laws of the State relating to telegraphs, all such lines of telegraph to and between such places in the District as for the purposes and business of the police the Board shall deem necessary. Said Board may procure and shall own and control all instruments, fixtures, property and materials procured for the purpose above mentioned, but the cost thereof shall be chargeable to general expenses of Metropolitan Police. The board of *Police* is hereby permitted to use the said telegraph lines to

aid them in facilitating the operations of the Board of Health, and when so used the expense thereof shall be charged to the said Board of Health. The Board of Metropolitan Police may detail from the force members thereof, not exceeding five in number, to perform surgeon's duties in any part of the district, and may remand them to post duty, and while they are so detailed to surgeon's duties their pay shall be the same as other surgeons. The pay of surgeons shall be chargeable to the respective counties in which they served as surgeons; and any surgeon may be dismissed by resolution of the Board, but the unanimous vote of the Board, all the commissioners being present, taken by ayes and noes, and recorded, shall be required to adopt such resolution. The Board of Police may, if requested by the Board of Health, employ their surgeons to aid the sanitary inspectors in the discharge of their duties, under such regulations and order as the Board of Police may make and issue.

SEC. 22. This act shall take effect immediately.

CHAPTER 908, LAWS OF 1867.

AN ACT for the regulation of tenement and lodging houses in the cities of New York and Brooklyn. Passed May 14, 1867.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. From and after the first day of July, eighteen hundred and sixty-seven, no house, building, or portion thereof, in the cities of New York or Brooklyn, shall be used, occupied, leased or rented for a tenement or lodging house unless the same conforms in its construction and appurtenances to the requirements of this act.

SEC. 2. Every house, building or portion thereof, in the cities of New York and Brooklyn, designed to be used, occupied, leased or rented, or which is used, occupied, leased or rented for a tenement or lodging house, shall have in every room which is occupied as a sleeping-room, and which does not communicate directly with the external air, a ventilating or tran-

som window, having an opening or area of three square feet, over the door leading into and connected with the adjoining room, if such adjoining room communicates with the external air, and also a ventilating or transom window of the same opening or area, communicating with the entry or hall of the house, or, where this is, from the relative situation of the rooms impracticable, such last-mentioned ventilating or transom window shall communicate with an adjoining room that itself communicates with the entry or hall. Every such house or building shall have in the roof, at the top of the hall, an adequate and proper ventilator, of a form approved in New York by the Inspector of Public Buildings, and in Brooklyn by the Assistant Sanitary Superintendent of the Metropolitan Board of health.

SEC. 3. Every such house shall be provided with a proper fire escape, or means of escape in case of fire, to be approved in New York by the Inspector of Public Buildings, and in Brooklyn by the Assistant Sanitary Superintendent of the Metropolitan Board of Health.

SEC. 4. The roof of every such house shall be kept in good repair, and so as not to leak, and all rain-water shall be so drained or conveyed therefrom as to prevent its dripping on to the ground, or causing dampness in the walls, yard or area. All stairs shall be provided with proper banisters or railings, and shall be kept in good repair.

SEC. 5. Every such building shall be provided with good and sufficient water-closets or privies, of a construction approved by the Metropolitan Board of Health, and shall have proper doors, traps, soil-pans, and other suitable works and arrangements, so far as may be necessary to insure the efficient operation thereof. Such water-closets or privies shall not be less in number than one to every twenty occupants of said house; but water-closets and privies may be used in common by the occupants of any two or more houses, provided the access is convenient and direct, and provided the number of occupants in the houses for which they are provided shall not exceed the proportion above required for every privy or water-closet. Every such house situated upon a lot on a street

in which there is a sewer, shall have the water-closets or privies furnished with a proper connection with the sewer, which connection shall be in all its parts adequate for the purpose, so as to permit entirely and freely to pass whatever enters the same. Such connection with the sewer shall be of a form approved in New York by the Croton Aqueduct Board, and in Brooklyn by the Board of Water Commissioners. All such water-closets and vaults shall be provided with the proper traps, and connected with the house sewer by a proper tight pipe, and shall be provided with sufficient water and other proper means of flushing the same; and every owner, lessee, and occupant shall take adequate measures to prevent improper substances from entering such water-closets or privies or their connections, and to secure the prompt removal of any improper substances that may enter them, so that no accumulation shall take place, and so as to prevent any exhalations therefrom, offensive, dangerous, or prejudicial to life or health, and so as to prevent the same from being or becoming obstructed. No cesspool shall be allowed in or under or connected with any such house, except when it is unavoidable, and in such case it shall be constructed in such situation and in such manner as the Metropolitan Board of Health may direct. It shall in all cases be water-tight, and arched or securely covered over, and no offensive smell or gases shall be allowed to escape therefrom, or from any privy or privy-vault. In all cases where a sewer exists in the street upon which the house or building stands, the yard or area shall be so connected with the same, that all water, from the roof or otherwise, and all liquid filth shall pass freely into it. Where no sewer exists in the street, the yard or area shall be so graded that all water, from the roof or otherwise, and all filth shall flow freely from it and all parts of it into the street gutter, by a passage beneath the sidewalk, which shall be covered by a permanent cover, but so arranged as to permit access to remove obstructions or impurities.

Sec. 6. From and after the first day of July, eighteen hundred and sixty-seven, it shall not be lawful, without a permit from the Metropolitan Board of Health, to let or occupy, or suffer to be occupied separately as a dwelling, any vault, cel-

lar, or underground room built or rebuilt after said date, or which shall not have been so let or occupied before said date. And from and after July first, eighteen hundred and sixty-seven, it shall not be lawful without such permit to let or continue to be let, or to occupy or suffer to be occupied separately as a dwelling any vault, cellar, or underground room whatsoever, unless the same be in every part thereof at least seven feet in height, measured from the floor to the ceiling thereof, nor unless the same be for at least one foot of its height above the surface of the street or ground adjoining or nearest to the same, nor unless there be outside of and adjoining the said vault, cellar, or room, and extending along the entire frontage thereof, and upwards, from six inches below the level of the floor thereof, up to the surface of the said street or ground, an open space of at least two feet and six inches wide in every part, nor unless the same be well and effectually drained by means of a drain, the uppermost part of which is one foot at least below the level of the floor of such vault, cellar, or room, nor unless there is a clear space of not less than one foot below the level of the floor, except where the same is cemented, nor unless there be appurtenant to such vault, cellar, or room, the use of a water-closet or privy kept and provided as in this act required, nor unless the same have an external window opening of at least nine superficial feet clear of the sash-frame, in which window opening there shall be fitted a frame filled in with glazed sashes, at least four and a half superficial feet of which shall be made so as to open for the purpose of ventilation. Provided, however, that in case of an inner or back vault, cellar, or room let or occupied along with a front vault, cellar, or room, as part of the same letting or occupation, it shall be a sufficient compliance with the provisions of this act if the front room is provided with a window as hereinbefore provided, and if the said back vault, cellar, or room is connected with the front vault, cellar, or room by a door and also by a proper ventilating or transom window, and where practicable also, connected by a proper ventilating or transom window, or by some hall or passage, or with the external air. Provided always that in any area adjoining a vault, cellar, or underground room there may be steps necessary for access to such vault, cellar, or room, if the same be so placed as not

to be over, across, or opposite to the said external window, and so as to allow between every part of such steps and the external wall of such vault, cellar, or room, a clear space of six inches at least, and if the rise of such steps is open; and provided further that over or across any such area there may be steps necessary for access to any building above the vault, cellar, or room to which such area adjoins, if the same be so placed as not to be over, across, or opposite to any such external window.

SEC. 7. From and after the first day of July, eighteen hundred and sixty-eight, no vault, cellar, or underground room shall be occupied as a place of lodging or sleeping, except the same shall be approved, in writing, and a permit given therefor, by the Metropolitan Board of Health.

SEC. 8. Every tenement or lodging house shall have the proper and suitable conveniences or receptacles for receiving garbage and other refuse matters. No tenement or lodging house, nor any portion thereof, shall be used as a place of storage for any combustible article, or any article dangerous to life or detrimental to health; nor shall any horse, cow, calf, swine, pig, sheep, or goat, be kept in said house.

SEC. 9. Every tenement or lodging house, and every part thereof, shall be kept clean and free from any accumulation of dirt, filth, garbage, or other matter in or on the same, or in the yard, court, passage, area, or alley connected with or belonging to the same. The owner or keeper of any lodging-house, and the owner or lessee of any tenement-house or part thereof, shall thoroughly cleanse all the rooms, passages, stairs, floors, windows, doors, walls, ceilings, privies, cesspools, and drains thereof of the house or part of the house of which he is the owner or lessee, to the satisfaction of the Metropolitan Board of Health, so often as shall be required by or in accordance with any regulation or ordinance of said Board, and shall, well and sufficiently, to the satisfaction of said Board, whitewash the walls and ceilings thereof twice at least in every year, and in the months of April and October, unless the said Board shall otherwise direct. Every tenement or lodging house shall have legibly posted or painted on the wall or door in the entry, or

some public accessible place, the name and address of the owner or owners, and of the agent or agents, of any one, having charge of the renting and collecting of the rents for the same; and service of any papers required by this act, or by any proceedings to enforce any of its provisions, or of the acts relating to the Metropolitan Board of Health, or the Department for the Survey and Inspection of Buildings, shall be sufficient if made upon the person or persons so designated as owner or owners, agent or agents.

SEC. 10. The keeper of any lodging-house, and the owner agent of the owner, lessee and occupant of any tenement-house and every other person having the care or management thereof, shall, at all times, when required by any officer of the Metropolitan Board of Health, or by any officer upon whom any duty or authority is conferred by this act, give him free access to such house and to every part thereof. The owner or keeper of any lodging-house, and the owner, agent of the owner, and the lessee of any tenement-house, or part thereof, shall, whenever any person in such house is sick of fever, or of any infectious, pestilential or contagious disease, and such sickness is known to such owner, keeper, agent, or lessee, give immediate notice thereof to the Metropolitan Board of Health, or to some officer of the same, and, thereupon, said Board shall cause the same to be inspected, and may, if found necessary, cause the same to be immediately cleansed or disinfected at the expense of the owner, in such manner as they may deem necessary and effectual; and they may also cause the blankets, bedding, and bedclothes used by any such sick person, to be thoroughly cleansed, scoured, and fumigated, or, in extreme cases, to be destroyed.

SEC. 11. Whenever it shall be certified to the Metropolitan Board of Health by the Sanitary Superintendent, that any building or part thereof is unfit for human habitation, by reason of its being so infected with disease as to be likely to cause sickness among the occupants, or by reason of its want of repair has become dangerous to life, said Board may issue an order and cause the same to be affixed conspicuously on the building, or part thereof, and to be personally served upon the *owner, agent*, or lessee, if the same can be found in this State,

requiring all persons therein to vacate such building for the reasons to be stated therein as aforesaid. Such building or part thereof shall, within ten days thereafter, be vacated; or within such shorter time, not less than twenty-four hours, as in said notice may be specified; but said Board, if it shall become satisfied that the danger from said house, or part thereof, has ceased to exist, may revoke said order, and it shall thenceforward become inoperative.

SEC. 12. No house hereafter erected shall be used as a tenement-house or lodging-house, and no house heretofore erected and not now used for such purpose, shall be converted into, used, or leased for a tenement or lodging house, unless, in addition to the requirements hereinbefore contained, it conforms to the requirements contained in the following sections:

SEC. 13. It shall not be lawful hereafter to erect for or convert to the purposes of a tenement or lodging house a building on the front of any lot where there is another building on the rear of the same lot, unless there is a clear open space exclusively belonging thereto, and extending upwards from the ground of at least ten feet between said buildings, if they are one story high above the level of the ground; if they are two stories high, the distance between them shall not be less than fifteen feet; if they are three stories high, the distance between them shall be twenty feet; and if they are more than three stories high, the distance between them shall be twenty-five feet. At the rear of every building hereafter erected for or converted to the purposes of a tenement or lodging house on the back part of any lot, there shall be a clear open space of ten feet between it and any other building. But when thorough ventilation of such open spaces can be otherwise secured, said distances may be lessened or modified, in special cases, by a permit from the Metropolitan Board of Health.

SEC. 14. In every such house hereafter erected or converted, every habitable room, except rooms in the attic, shall be in every part not less than eight feet in height from the floor to the ceiling; and every habitable room in the attic of any such building, shall be at least eight feet in height from the floor to the ceiling, throughout not less than one-half the area of such

room. Every such room shall have, at least, one window, connecting with the external air, or over the door a ventilator of perfect construction, connecting it with a room or hall which has a connection with the external air, and so arranged as to produce a cross-current of air. The total area of window or windows in every room communicating with the external air, shall be at least one-tenth of the superficial area of every such room; and the top of one, at least, of such windows, shall not be less than seven feet and six inches above the floor, and the upper half, at least, shall be made so as to open the full width. Every habitable room of a less area than one hundred superficial feet, if it does not communicate directly with the external air, and is without an open fireplace, shall be provided with special means of ventilation by a separate air-shaft extending to the roof, or otherwise, as the Board of Health may prescribe.

Sec. 15. Every such house hereafter erected or converted shall have adequate chimneys running through every floor, with an open fireplace or grate, or place for a stove, properly connected with one of said chimneys, for every family and set of apartments. It shall have proper conveniences and receptacles for ashes and rubbish. It shall have Croton, Ridgewood, or other water furnished at one or more places in such house, or in the yard thereof, so that the same may be adequate and reasonably convenient for the use of the occupants thereof. It shall have the floor of the cellar properly cemented, so as to be water tight. The halls on each floor shall open directly to the external air, with suitable windows, and shall have no room or other obstruction at the end, unless sufficient light or ventilation is otherwise provided for said halls, in a manner approved by the Metropolitan Board of Health.

Sec. 16. Every owner or other person, violating any provision of this act, after the same shall take effect, shall be guilty of a misdemeanor, punishable by a fine of not less than ten dollars, nor more than one hundred dollars, or by imprisonment for not more than ten days for each and every day that such violation shall continue, or by both such fine and imprisonment in the discretion of the court. He shall also be *liable to* pay a penalty of ten dollars for each and every day

that such offence shall continue. Such penalty may be sued for and recovered by the Metropolitan Board of Health, and when recovered shall be paid over to the Treasurer of said Board. In every proceeding for a violation of this act, and in every such action for a penalty, it shall be the duty of the owner of the house to prove the date of its erection or conversion to its existing use, if that fact shall become material, and the owner shall be *prima facie* the person liable to pay such penalty, and after him the person who is the lessee of the whole house, in preference to the tenant or lessee of a part thereof. In any such action the owner, lessee, and occupant, or any two of them, may be made defendants, and judgment may be given against the one or more shown to be liable, as if he or they were sole defendant or defendants.

SEC. 17. A tenement-house, within the meaning of this act, shall be taken to mean and include every house, building, or portion thereof which is rented, leased, let, or hired out to be occupied, or is occupied as the house or residence of more than three families living independently of another, and doing their cooking upon the premises, or by more than two families upon a floor, so living and cooking, but having a common right in the halls, stairways, yards, water-closets, or privies, or some of them. A lodging-house shall be taken to mean and include any house or building, or portion thereof, in which persons are harbored or received, or lodged for hire for a single night, or for less than a week at one time, or any part of which is let for any person to sleep in for any term less than a week. A cellar shall be taken to mean and include every basement or lower story of any building or house of which one-half or more of the height from the floor to the ceiling is below the level of the street adjoining.

SEC. 18. The Metropolitan Board of Health shall have authority to make other regulations as to cellars and as to ventilation, consistent with the foregoing, where it shall be satisfied that such regulations will secure equally well the health of the occupants.

SEC. 19. This act, except when it is otherwise expressly provided, shall take effect in May first, eighteen hundred and sixty-seven.

CHAPTER 700, LAWS OF 1867.

AN ACT with reference to the powers of the Metropolitan Board of Health in the regulation of cattle driving and other matters. Passed April 24, 1867.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SEC. 1. From and after the passage of this act it shall not be lawful to drive any cattle, sheep, swine, pigs, or calves, through the streets or avenues of New York or Brooklyn, or any of them, except at such times and in such manner as the Metropolitan Board of Health may by ordinance or resolution prescribe. But so long as said Board shall permit the business of slaughtering animals for food to be carried on, in that portion of the city of New York south of Fortieth Street, it shall be lawful to drive through such streets and avenues in the city of New York as may be designated by said Board, and under such restriction as to numbers as said Board may prescribe, cattle from eight o'clock in the evening till two hours after sunrise in the morning, and sheep until twelve o'clock at noon. But in designating the streets and avenues the said Board shall have regard as well to the convenience of persons driving the same as to the character, condition, and ordinary use of the said streets and avenues.

SEC. 2. No person in charge of any cattle, sheep, pigs, swine, or calves, shall, if able to prevent it, permit any such cattle, sheep, pigs, swine, or calves, to pass upon or across any sidewalk in said cities, and any person violating any provision of this act shall be deemed guilty of a misdemeanor, and on conviction be punished by a fine of not less than ten or more than fifty dollars, or by imprisonment in the penitentiary for not more than thirty days, or by both such fine and imprisonment.

SEC. 3. In all cases to which said Board of Health is a party, either when acting as such or as a Board of Excise, preference shall be given to the same by all courts and judges on all motions, trials, and appeals, in the same manner as to cases to which the people of the State are directly parties *plaintiff*, and whenever said Board shall seek any provisional

remedy, or shall prosecute any appeal, it shall not be necessary before obtaining or prosecuting the same to give any undertaking, but such Board shall be liable in the same manner as if an undertaking had been given in the ordinary manner.

SEC. 4. This act shall take effect immediately.

CHAPTER 382. 1867.

AN ACT to incorporate the Soldiers' Business Messenger and Dispatch Company. Passed April 15, 1867.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

* * * SECTION 6. Said corporation is hereby authorized and shall have power to erect and maintain covered stands or booths on the streets of the cities and villages in said district, except Broadway in the city of New York. Provided that no booth or stand shall be placed upon the sidewalk, without the previous consent of the owner or lessee of the property fronting or against said booth or stand; and the number, size, and location of said booths or stands shall be determined by the Metropolitan Board of Health, or a majority of said Board, who shall determine and locate the same upon application by the president of this corporation

* * * SECTION 9. This act shall take effect immediately.

CHAPTER 806. 1867.

AN ACT to enable the Board of Supervisors of the County of New York to raise money by tax for certain county purposes; to extend the powers of the Metropolitan Police, and to provide for the auditing and payment of unsettled claims against said county. Passed April 25, 1867, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

* * * SECTION 26. Nothing in this act shall be deemed to conflict, in any manner, with the Quarantine laws, or with the rules and regulations of the Health Officer of the Port of New York; nor shall any permit or licenses issued under the act hereby amended authorize any person to visit any ship or vessel under quarantine, without the authority of the Health Officer of the Port of New York, or the Metropolitan Board of Health.

CHAPTER 566.

AN ACT to provide for the proper drainage of lands within the corporate limits of the City and County of New York. Passed April 18, 1871; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Whenever it shall appear to be necessary for the protection of the public health that any part or parcel of land within the corporate limits of the city and county of New York, needs to be drained by other means than by sewers, and it shall be so certified by the city sanitary inspector, and said certificate is filed among the records of the board of health of the health department of said city, the said board shall direct that the same be done by and under the direction of the department of public works of said city and county.

SEC. 2. All parts and parcels of land lying below the levels of the sewers adjacent thereto, upon which surface water remains stagnant, or through which water-courses have or at present do run, may be so drained by a properly-constructed blind drain, which shall be carried along such natural water-course, until it can be made to enter any sewer at its proper level, or if such sewer cannot be reached, it shall be carried to the adjacent river.

SEC. 3. All lands benefited by said drain directly or indirectly, for a distance from said drain included between the adjacent streets and avenues thereto, shall be liable to assessment thereon pro rata in proportion to the direct or indirect benefit derived from the construction of said drain. The assessment to be made and collected as other assessments for the public benefit are provided for. The assessments to become a lien upon the property assessed as in like cases provided.

CHAPTER 742. 1871.

AN ACT in relation to storage and the keeping of combustible material in the City of New York, the use and control of the fire-alarm telegraph, the incumbrance of hydrants, and other purposes connected with the prevention and extinguishment of

fires therein, and imposing certain powers and duties upon the Board of Fire Commissioners of the said city. Passed April 26, 1871, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The following regulations are hereby established for storage and the keeping and sale of combustible materials in the City of New York:

. . . . . .

SEC. 4. No person shall have, keep upon sale, or store in any place or building within the corporate limits of the City of New York any crude petroleum, coal, or any similar oil, nor any of their products, either of which shall emit an inflammable vapor at a temperature below one hundred degrees Fahrenheit, except under the following provisions.*

. . . . . .

CHAPTER 677. 1872.

AN ACT in relation to the cleaning of the streets, avenues, lanes, alleys, gutters, wharves, piers, and heads of slips in the City of New York, and the removal of all ashes, garbage, rubbish, and sweepings, and all dead animals, blood, offal, and other refuse matter, and all bones, fish not fit for human food, and all diseased, tainted, and impure meats, and other like matters in said city, therefrom, and in relation to the supervision and enforcement of and the cancellation of existing contracts and arrangements in respect thereto. Passed May 14, 1872, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The Board of Police in the City of New York, as it may, from time to time, be constituted, shall have full and exclusive power and authority, and is hereby charged with the duty of causing all streets, avenues, lanes, alleys, gutters, wharves, piers, and heads of slips in said city, to be

* The remainder of this section gives in detail the rules and regulations established by law. By this law, and by section 76, article 10, of the Charter, chapter 335, 1873, the control of this subject matter is vested in the Fire Department, in which there is a Bureau, whose principal officer is called Inspector of Combustibles.

thoroughly cleaned, from time to time, and kept at all times thoroughly clean, and to remove from said city daily, and as often as may be necessary, all ashes, garbage, rubbish, sweepings of every kind, and all dead horses and other dead animals, blood, offal, and other refuse matter, and all bones, all fish not fit for human food, all diseased, tainted, or impure meats, and all other matter or nuisances of a similar kind, which the Board of Health in said city may order to be removed. The said ashes, dirt, garbage, and rubbish shall be removed from the city as fast as collected, except such dirt and ashes as, in the judgment of the said Board of Health, may be suitable to fill low or sunken lots, and which may be required for such purpose.

SEC. 2. The said Board of Police is hereby vested with full and exclusive power and authority to supervise, and is hereby charged with the duty of supervising the execution of the agreement for cleaning the streets in said city, made on the ninth day of June, A. D. eighteen hundred and sixty-five, between the mayor, aldermen and commonalty of the City of New York, of the first part, and John L. Brown, William H. Devoe, and Shepherd F. Knapp, contractors of the second part, provided the same is found to be a valid, existing agreement, and to see that said agreement is fully executed, on the part of the said contractors, and of those who, by assignment or otherwise, have succeeded to the rights, interests, and duties of said contractors, and to arrange by agreement for the surrender and cancellation of said contract by said contractors, or by their said successors in interest therein, on such terms as, in their judgment, will be for the best interests of said city; and to declare the same cancelled and determined whenever the said contractors or their successors in interest therein shall fail or omit to perform substantially all the stipulations and covenants therein contained on the part of said contractors, and to be by them kept and performed. Whenever the said contract shall be cancelled, as in this section provided, either by agreement or by reason of the failure of said contractors, or their successors in interest, to perform the same on their part, the Board of Police shall proceed to exercise the powers and perform the duties, and shall thence continue

to exercise the powers conferred, and perform the duties enjoined, by the first section of this act, in respect to the cleaning of the streets in said city, and the removing of ashes, garbage, rubbish, and sweepings.

SEC. 3. Whenever the existing contract in relation to the removal from said city of dead animals, blood, offal and other refuse matter, made on the eighth of April, eighteen hundred and sixty-five, between the mayor, aldermen and commonalty of the City of New York, of the first part, and the Long Island Bone Laboratory of the second part, shall be terminated, the said Board of Police shall proceed to and thence continue to exercise the power and authority conferred and perform the duties enjoined by the first section of this act, in respect to the removal from said city of dead animals, blood, offal, and other refuse matter.

SEC. 4. The department, bureau, or city official or officials, authority or authorities, having from time to time the management and control of the public docks, piers and slips of said city, shall designate and set apart for the use of the said Board of Police, suitable and sufficient docks, piers, and slips, or berths in slips, and so located as to be adapted to and meet the wants of said board in executing the various duties imposed by this act, without interruptions or delays.

SEC. 5. The said Board of Police is hereby authorized to contract for the sale of street manure, dirt, sweepings, ashes, and garbage, any or either of them, to any person or persons, for such price or prices as to them shall seem expedient, and so as that the same shall be promptly removed from said city, or so disposed of as not to be offensive or detrimental to health, and to use the moneys thus obtained in defraying the expense of executing the powers conferred by this act. All moneys received under this section, and all contracts made under this act, shall be reported to the comptroller of the City of New York semi-monthly.

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THE CHARTER OF THE CITY OF NEW YORK,

SO FAR AS ITS PROVISIONS RELATE TO THE POWERS AND DUTIES OF THE HEALTH DEPARTMENT.

1873.

AN ACT to reorganize the local government of the City of New York. Passed April 30, 1873, three-fifths being present, as amended by an act entitled "An act to amend chapter 335 of the laws of 1873," passed June 13, 1873.

ARTICLE SECOND.

OF LEGISLATIVE POWERS.

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SECTION 17. The Common Council shall have power to make, continue, modify and repeal such ordinances, regulations and resolutions as may be necessary to carry into effect any and all of the powers now vested in or by this act conferred upon the corporation, and shall have the power to enforce obedience to such ordinances and observance thereof, by ordaining penalties for each and every violation thereof, in such sums as it may deem expedient, not exceeding one hundred dollars; and shall have power to make such ordinances, not inconsistent with law and the constitution of this State, and with such penalties, in the matter, and for the purposes following, in addition to other powers elsewhere specially granted, namely:

1. To regulate traffic and sales in the streets, highways, roads and public places.

2. To regulate the use of the streets, highways, roads, and public places by foot-passengers, animals, vehicles, cars, and locomotives.

2.* To regulate the use of sidewalks, and prevent the extension of building fronts and house fronts within the stoop lines.

4. To prevent encroachments upon and obstructions to the streets, highways, roads and public places, not including parks, and to authorize and require the Commissioners of Public Works to remove the same, but they shall have no power to authorize the placing or continuing of any encroachment or obstruction upon any street or sidewalk, except the temporary occupation thereof, during the erection or repair of a building on a lot opposite the same.

5. To regulate the opening of street surfaces, the laying of gas and water mains, the building and repairing of sewers, and the erecting of gas-lights.

6. To regulate the numbering of the houses and lots in the streets and avenues, and the naming of the streets, avenues and public places; but it shall not be lawful for the said board to number or renumber any houses, in any street, avenue, alley, lane, road, way or public place, or to in anywise change or alter any such numbering or the name of any street, avenue or public place, save between the first day of December of any year and the first day of May next ensuing.

7. To regulate and prevent the throwing or depositing of ashes, offal, dirt or garbage in the streets.

8. To regulate the cleaning of the streets, avenues, sidewalks and gutters, and removing ice and snow from them.

9. To regulate the use of the streets and sidewalks for signs, sign-posts, awnings, awning-posts, horse-troughs, urinals, telegraph-posts and other purposes.

10. [*As amended by sec.* 6, *chap.* 757, *laws of* 1873.] To provide for and regulate street pavements, crosswalks, curbstones, gutter-stones, sidewalks, and the grade of streets, and to provide for regulating, grading, flagging, curbing, guttering and lighting streets, roads, places and avenues.

11. To regulate public cries, advertising noises, steam-

*So in original.

whistles, and ringing bells in the streets, and to control and limit traffic in the streets, avenues and public places.

12. In relation to street beggars, vagrants, and mendicants.

13. In relation to the use of guns, pistols, firearms, firecrackers, fireworks, and detonating works of all descriptions within the city.

14. In relation to intoxication, fighting and quarrelling in the streets.

15. In relation to places of public amusement.

16. In relation to exhibiting banners, placards or flags in or across the streets or from houses or other buildings.

17. In relation to the exhibition of advertisements or handbills along the streets, avenues and public places.

18. In relation to the construction, repairs and use of vaults, cisterns, areas, hydrants, pumps and sewers.

19. In relation to partition fences and walls.

20. In relation to the construction, repair, care and use of markets.

21. In relation to the licensing and business of public cartmen, truckmen, hackmen, cabmen, expressmen, car-drivers, boatmen, pawnbrokers, junk-dealers, hawkers, peddlers and venders, and all licenses shall be according to an established form and regularly numbered, and be duly registered in the office of the mayor.

22. In relation to the inspection and sealing of weights and measures, and enforcing the keeping and use of proper weights and measures by venders.

23. In relation to the inspection, weighing and measuring of fire-wood, coal, hay and straw, and the cartage of the same.

24. In relation to the mode and manner of suing for, collecting and keeping accounts of the city and county, and disposing of the penalties provided for a violation of all ordinances.

25. In relation to the erection and repair of public foun-

tains for the use of man and animals, at convenient points along the streets and avenues and public places.

26. By resolution to require the commissioner of public works to do any work or take any action proper for carrying into effect the powers of the Common Council. The ordinances of the Common Council shall, as far as practicable, be reduced to a code, and be published as such in the *City Record.*

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ARTICLE THIRD.

OF THE EXECUTIVE POWER.

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SEC. 26. There shall be the following other departments in said city:

Finance Department.
Law Department.
Police Department.
Department of Public Works.
Department of Public Charities and Correction.
Fire Department.
Health Department.
Department of Public Works.*
Department of Docks.
Department of Taxes and Assessments.
Department of Buildings.

SEC. 27. The said departments shall, once in three months, and at such other times as the mayor may direct, make to him, in such form and under such rules as he may prescribe, reports of the operations and action of the same and each of them, which reports shall be published in the City Record. The said department shall always, when required by the mayor, furnish to him such information as he may demand, within such reasonable time as he may direct.

* So in original.

SEC. 28. The heads of all departments (except as otherwise herein specifically provided) shall have power to appoint and remove all chiefs of bureaus (except the chamberlain), as also all clerks, officers, employees and subordinates in their respective departments, except as herein otherwise specially provided, without reference to the tenure of office of any existing appointee. But no regular clerk or head of a bureau shall be removed until he has been informed of the cause of the proposed removal, and has been allowed an opportunity of making an explanation; and in every case of a removal, the true grounds thereof shall be forthwith entered upon the records of the department or board. In case of removal, a statement, showing the reason therefor, shall be filed in the department. The number and duties of all officers and clerks, employees and subordinates in every department, except as otherwise herein specifically provided, with their respective salaries, whether now fixed by special law or otherwise, shall be such as the heads of the respective departments shall designate and approve; but subject, also, to the revision of the Board of Apportionment; provided, however, that the aggregate expense thereof shall not exceed the total amount duly appropriated to the respective departments for such purposes. Any head of department may, with the consent of the Board of Apportionment, consolidate any two or more bureaus established by law, and may change the duties of any bureau; and it shall be the duty of the head of the Finance Department to bring together all officers and bureaus authorized to receive money for taxes, assessments or arrears, in such manner that the payment of the same can be made, as nearly as practicable, at one time and place, and in one office.

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ARTICLE SEVENTH.

OF THE POLICE DEPARTMENT.

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SEC. 67. The Board of Police by this act created shall possess all the powers conferred upon the existing Board of Police by chapter six hundred and seventy-seven of the laws of eighteen hundred and seventy-two, and any act or acts amendatory thereof or supplemental thereto, except as herein otherwise provided; and shall establish in their department a bureau, which shall be called the Bureau of Street Cleaning, the chief officer of which shall be a police officer and shall be called "Inspector of Street Cleaning;" and who shall, under the supervision of the Board of Police, have charge of the cleaning of the streets, avenues and public places of the city. He shall supervise and enforce the performance of the conditions of any existing contract for such cleaning, or for the removal, under any contract now existing or hereafter made by the Board of Health, of night soil and contents of sinks and privies, and offal and dead animals; and shall perform such additional cleaning as, in the opinion of the Board of Health, is necessary to keep said streets, avenues and public places clean. He shall possess all the powers and rights imposed upon or reserved to the city inspector in any law or ordinance, or in any contract now in force, so far as the same relates to street cleaning. He shall file with the comptroller monthly a statement, under oath, showing the number of persons, and at what salary or compensation, that were employed during each day in the preceding month, and shall keep and preserve regular pay-rolls, which shall be open to reasonable public inspection.

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ARTICLE EIGHTH.

OF THE DEPARTMENT OF PUBLIC WORKS.

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SEC. 71. The said department shall have cognizance and control—

1. Of all structures and property connected with the supply and distribution of Croton water.

2. Of the collection of the revenues arising from the sale or use of the Croton water.

3. Of opening, altering, regulating, grading, flagging, curbing, guttering and lighting streets, roads, places and avenues.

4. Of repairing and construction of public roads.

5. Of the care of public buildings.

6. Of the filling of sunken lots.

7. Of public sewers and drainage.

8. Of street vaults and openings in sidewalks.

9. Of paving, repairing and repaving streets, and keeping the same clear of obstructions.

10. Of digging and constructing wells.

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ARTICLE ELEVENTH.

OF THE HEALTH DEPARTMENT.

SEC. 80. The Health Department shall consist of the president of the Board of Police, the Health-Officer of the Port, and two officers to be called "Commissioners of Health," one of whom shall have been a practising physician for not less than five years preceding his appointment. The Commissioner of Health, who is not a physician, shall be the president of the board, and shall be so designated in his appointment. These several officers shall together constitute a *board, which* shall be the head of the Health Department.

The Commissioners of Health, except those first appointed, shall hold their offices for six years, unless sooner removed as herein provided.

SEC. 81. There shall be two bureaus in this department. The chief officer of one bureau shall be called the "Sanitary Superintendent," who, at the time of his appointment, shall have been, for at least ten years, a practising physician and for three years a resident of the city of New York, and he shall be the chief executive officer of said department. The chief officer of the second bureau shall be called the "Register of Records;" and in said bureau shall be recorded, without fees, every birth, marriage and death, and all inquisitions of coroners which shall occur or be taken within the city of New York. But in cases of inquests, where the jury shall find that death was caused by negligence or malicious injury, only a copy of the record need be filed in said bureau. Said board may, with the consent of the Board of Police, impose any portion of the duties of subordinates in said department upon subordinates in the Police Department, and may delegate any portion of its powers to the president or sanitary superintendent, to be exercised when the board is not in session. The said Board of Health may appoint an attorney at a salary not exceeding two thousand five hundred dollars a year, to be provided for and paid as other salaries in said department.

SEC. 82. It shall be the duty of said board, immediately upon organization under this act, to cause to be conformed to this article the sanitary ordinances then or lately adopted by the existing Department of Health, which shall be called the "sanitary code." And said Health Department is hereby authorized and empowered to add to such sanitary code, from time to time, and shall publish additional provisions for the security of life and health in the city of New York, and therein to distribute appropriate powers and duties to the members and employees of the Board of Health, which shall

be published in the *City Record*. Any violation of said code shall be treated and punished as a misdemeanor, and the offender shall also be liable to pay a penalty of fifty dollars, to be recovered in a civil action in the name of the mayor, aldermen and commonalty of the city of New York. All orders duly made by the existing Department of Health, and by their terms or necessary legal effect to be executed in the city of New York, may be executed, and the execution thereof compelled, and the execution of such of them as are partly executed may be compelled by the Department of Health hereby created; and the said orders may be severally rescinded or modified by last said department, with like effect as could have been done by the existing Department of Health at the time the said orders were severally made. The said department may discharge all liens upon real estate in the city of New York, created in proceedings instituted by the Metropolitan Board of Health, or the existing Department of Health, in the same manner and for the same causes that, by laws existing January first, eighteen hundred and seventy, they could be discharged by the Metropolitan Board of Health.

[*Amended by adding the following—Sec.* 12, *Chapter* 757, *Laws of* 1873.] The authority, duty and powers conferred or enjoined upon the Metropolitan Board of Health by chapter seventy-four of the laws of eighteen hundred and sixty-six, and the several acts amendatory thereof, and by any other subsequent laws of this State, and, upon the several officers and members of said board, not inconsistent with the provisions of this act, are hereby conferred upon and vested in, or enjoined upon, and shall hereafter be exclusively exercised in the City of New York, by the Health Department and Board of Health created by this act; and by the officers of the said Board of Health and the said Health Department; and the same are to be exercised in the manner specified in the said chapter seventy-four, of the laws of eighteen hundred and sixty-six, and the several acts amendatory thereof, and

by any other subsequent laws of the State, and in conformity to the provisions of this act.

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ARTICLE SIXTEENTH.

GENERAL PROVISIONS, POWERS, AND LIMITATIONS.

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SEC. 89. A majority of the members of a board in any department of the city government, and also of the board for the revision and correction of assessments, shall constitute a quorum to fully perform and discharge any act or duty authorized, possessed by or imposed upon any department or any board aforesaid, and with the same legal effect as if every member of any such board aforesaid had been present, except as herein otherwise specially provided. Each board may, except as herein otherwise provided, choose, in its own pleasure, one of its members, who shall be its president, and one who shall be its treasurer, and may appoint a chief clerk or secretary. No expense shall be incurred by any of the departments, boards or officers thereof, unless an appropriation shall have been previously made covering such expense.

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SEC. 91. All contracts to be made or let for work to be done or supplies to be furnished, except as herein otherwise provided, and all sales of personal property in the custody of the several departments or bureaus, shall be made by the appropriate heads of departments under such regulations as now exist or shall be established by ordinances of the Common Council. Whenever any work is necessary to be done to complete or perfect a particular job, or any supply is needful for any particular purpose, which work and job is to be undertaken or supply furnished for the corporation, and the several parts of the said work or supply shall together involve the expenditure of more than one thousand dollars, the same shall be by contract, under such regulations concerning

it as shall be established by ordinance of the Common Council, excepting such works now in progress as are authorized by law or ordinance to be done otherwise than by contract; and unless otherwise ordered by a vote of three-fourths of the members elected to the Common Council; and all contracts shall be entered into by the appropriate heads of departments, and shall, except as herein otherwise provided, be founded on sealed bids or proposals, made in compliance with public notice duly advertised in the *City Record*, said notice to be published at least ten days; and all such contracts, when given, shall be given to the lowest bidder, the terms of whose contracts shall be settled by the counsel to the corporation as an act of preliminary specification to the bid or proposal, and who shall give security for the faithful performance of his contract in the manner prescribed and required by ordinance; and the adequacy and sufficiency of this security shall, in addition to the justification and acknowledgment, be approved by the comptroller. All bids or proposals shall be publicly opened by the officers advertising for the same and in the presence of the comptroller, but the opening of the bids shall not be postponed if the comptroller shall, after due notice, fail to attend. If the lowest bidder shall neglect or refuse to accept the contract within forty-eight hours after written notice that the same has been awarded to his bid or proposal, or if he accepts but does not execute the contract and give the proper security, it shall be readvertised and relet as above provided. In case any work shall be abandoned by any contractor, it shall be readvertised and relet by the head of the appropriate department, in the manner in this section provided.

SEC. 92. All property sold shall be sold at auction, after previous public notice, under the superintendence of the appropriate head of department. Every contract, when made and entered into, as before provided for, shall be executed in *duplicate*, and shall be filed in the Department of Finance; a *receipt for* each payment, made on account of or in satisfac-

tion of the same, shall be indorsed on the said contract by the party receiving the warrant, which warrant shall be only given to the person interested in such contract, or his authorized representative. The proceeds of all sales made under and by virtue of this act shall, except as provided in section sixty-five hereof, be by the officer receiving the same immediately deposited with the chamberlain; and the account of sales, verified by the officer making the sales, shall be immediately filed in the office of the comptroller. No expenditure for work or supplies involving an amount for which no contract is required shall be made, except the necessity therefor be certified to by the head of the appropriate department, and the expenditure has been duly authorized and appropriated.

SEC. 93. Every person who shall be appointed or elected to any office under this act shall receive a certificate of appointment, designating the term for which such person has been appointed or elected.

SEC. 94. Every person elected or appointed to any office under the city government shall, within five days after notice of such election or appointment, take and subscribe, before the mayor, or any judge of a court of record, an oath or affirmation faithfully to perform the duties of his office; which oath or affirmation shall be filed in the office of the mayor.

SEC. 95. Any officer of the city government, or person employed in its service, who shall wilfully violate or evade any of the provisions of this act, or commit any fraud upon the city, or convert any of the public property to his own use, or knowingly permit any other person so to convert it, or by gross or culpable neglect of duty allow the same to be lost to the city, shall be deemed guilty of a misdemeanor, and, in addition to the penalties imposed by law, and, on conviction, shall forfeit his office, and be excluded forever after from receiving or holding any office under the city government; and any person who shall wilfully swear falsely in

any oath or affirmation required by this act shall be guilty of perjury.

SEC. 96. [*As amended by Sec.* 16, *Chapter* 757, *Laws of* 1873.] No officer of the city government, except the city marshals, shall have or receive to his own use any fees, perquisites or commissions, or any percentage; but every such officer shall be paid by a fixed salary, and all fees, percentages and commissions received by any such officer shall be the property of the city. And every officer who shall receive any fees, perquisites, commissions, percentages or other money which should be paid over to the city, shall, before he shall be entitled to receive any salary, make under oath a detailed return to the comptroller, showing the amount of all such fees, commissions, percentages, perquisites and moneys received by him since the last preceding report, the person from whom received, and the reason for its payment, and shall produce the receipt of the chamberlain, showing the payment to him, by said officer, of the aggregate amount thereof. All sums received as above or for licenses or permits shall be paid over weekly, without deduction by the officers or department receiving them, to the chamberlain, and a detailed return under oath shall at the same time be made in such form as the comptroller shall prescribe, stating when and from whom, and for what use, such moneys were received. But nothing herein contained shall be construed so as to repeal, modify, or otherwise affect the provisions of the fourteenth section of chapter seven hundred and forty-two of the laws of eighteen hundred and seventy-one.

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SEC. 107. The heads of all departments, except the Police Department, and the chiefs of each and every bureau of said departments, or any of them, except the Police Department, shall, with reasonable promptness, furnish to any taxpayer *desiring* the same a true and certified copy of any book, *account* or paper kept by such department, bureau or officer,

or such part thereof as may be demanded, upon payment in advance of five cents for every hundred words thereof by the person demanding the same. All books, accounts and papers, in any department or bureau thereof, except the Police Department, shall at all times be open to the inspection of any taxpayer, subject to any reasonable rules and regulations in regard to the time and manner of such inspection as such department, bureau, or officer may make in regard to the same, in order to secure the safety of such books, accounts and papers, and the proper use of them by the department, bureau or officer. In case such inspection shall be refused, such taxpayer, on his sworn petition, describing the particular book, account or paper that he desires to inspect, may, upon notice of not less than one day to such department, bureau or officer, apply to any justice of the Supreme Court for an order that he be allowed to make such inspection as such justice shall by his order authorize, and such order shall specify the time and manner of such inspection.

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Sec. 109. Any alderman, commissioner, head of department, chief of bureau, deputy thereof, or clerk therein, or other officer of the corporation or person, may, if a judge shall so order, be summarily examined upon an order to be made on application based on an affidavit of the mayor or of the comptroller, or any five aldermen, or any commissioner of accounts, or of any five citizens who are taxpayers, requiring such examination, and signed by any justice of the Supreme Court of the first judicial department, directing such examination to be publicly made at the chambers of said court, or at the office of said department, on a day and hour to be named, not less, however, than forty-eight hours after personal service of said order. Such examination shall be confined to an inquiry into any alleged wrongful diversion or misapplication of any moneys or fund, or any violation of the provisions of law, or any want of me-

chanical qualification for any inspectorship of public work, or any neglect of duty in acting as such inspector, or any delinquency charged in said affidavit touching the office or the discharge or neglect of duty, of which it is alleged in the application for said order that such alderman, head of department, or other aforementioned officer or person, has knowledge or information. Such alderman, commissioner, head of department, clerk, or other aforesaid officer or person shall answer such pertinent questions relative thereto, and produce such books and papers in his custody, or under his control, as the justice shall direct, and the examination may be continued from time to time, as such justice may order, but the answer of the party charged shall not be used against him in any criminal proceeding; provided, however, that for all false answers on material points he shall be subject to the pains and penalties of the crime of perjury. The proceedings may be continued before any other justice in said district, and other witnesses, as well as the parties making such application may, in the discretion of said justice, be compelled to attend and be examined touching such alleged delinquencies. Such justice may punish any refusal to attend such examination or to answer any questions pursuant to his order, as for a contempt of court, and shall have as full power and authority to enforce obedience to the order or directions of himself, or any other justice, as any justice of the Supreme Court may now have, or shall possess, to enforce obedience or to punish contempt in any case or matter whatever, and shall impose costs upon those promoting such an examination not exceeding two hundred and fifty dollars, if he thinks there was no probable cause for making the application hereinbefore provided for, the said costs to be paid to the officer or person examined, and for which the said officer or person may have judgment and an execution. The examination hereinbefore provided for shall be reduced to writing, and be filed in the office of the county clerk of the county of New York, and be at all reasonable times

accessible to the public, and notice of the same given to the department in which said officer is employed.

SEC. 110. In every department or board there shall be kept a record of all its transactions, which shall be accessible to the public, and once a week a brief abstract, omitting formal language, shall be made of all transactions, and of all contracts awarded and entered into for work and material of every description, which abstract shall contain the name or names, and residences by street and number, of the party or parties to the contract, and of their sureties, if any. A copy of such abstract shall be promptly transmitted to the person designated to prepare the *City Record*, and shall be published therein. Notice of all appointments and removals from office, and all changes of salaries, shall, in like manner, within one week after they are made, be transmitted to and published in the *City Record*.

SEC. 111. There shall be published daily (Sundays and legal holidays excepted), under a contract to be made as hereinafter provided, a paper to be known as the *City Record*. . . . All advertising required to be done for the city, and all notices required by law or ordinance to be published in corporation papers, shall be inserted, at the public expense, only in the *City Record*, and a publication therein shall be a sufficient compliance with any law or ordinance requiring publication of such matters or notices; but there may be inserted in two morning and two evening and two weekly papers published in the English language, and in one newspaper published in the German language, all in said city, to be designated by the mayor, corporation counsel and commissioner of public works, annually, brief advertisements calling attention to any contracts intended to be awarded, or bonds to be sold, and referring for full information to said *City Record*. No money shall be paid from the city treasury for advertising hereafter done except such as is herein authorized, and no action shall be maintained or judgment obtained

against the city for any advertising hereafter done except such as is herein authorized. The copies of the *City Record* furnished to the city shall be distributed to the several departments and officers, and to such persons and in such manner as the mayor shall direct. All printing for said city, including the printing of the *City Record*, shall be executed, and all stationery shall be supplied, under contracts, to be entered into by the mayor, corporation counsel and commissioner of public works. . . . No more than one thousand copies of any message of the mayor, or report of any head of a department, and no more than five hundred copies of any report of a committee of the Board of Aldermen, or Board of Assistant Aldermen, shall be printed apart from the *City Record*. Neither the work known as the "Manual of the Common Council" nor any similar work shall be printed at the public expense; but there shall be published in the *City Record*, within the month of January in each year, a list of all subordinates employed in any department (except laborers), with their salaries, and residences by street numbers, and all changes in such subordinates or salaries shall be so published within one week after they are made. It shall be the duty of all heads of departments to furnish, to the person appointed to supervise the publication of the *City Record*, everything required to be inserted therein. The said person shall have the power to make requisitions in writing upon the heads of departments to furnish the information necessary to make up such list according to rules prescribed by him and approved by the comptroller; and such information must be supplied by the department within ten days after such requisition. He shall have power to require such information in the same manner, every three months, and all other information in the control of said heads of departments, necessary to perform his duties under this section. He shall include in his list the number of laborers, designating the department in which *they are* employed, and if practicable the numbers employed

in the prosecution of specific work, and the amounts paid to them. He shall also cause to be printed in each issue of said *City Record* a separate statement of the hours during which all public offices in the city are open for business, and at which each court regularly opens and adjourns, as well as of the places where such offices are kept and such courts are held. The detailed canvass of votes at every election shall be published at the expense of the city only in the *City Record.* The mayor may order the insertion of any official matter or report in the *City Record.*

[*Amended by adding the following—Sec.* 19, *Chapter* 757, *Laws of* 1873.] Nothing herein contained shall apply to any printing or supplies of stationery for any department where, by the concurrent vote of the mayor, commissioner of public works, and corporation counsel, it shall be decided to have such printing done, or such stationery furnished without contract, but in such cases such printing and stationery shall be procured in such manner and on such terms and conditions as the said officers shall deem to be for the best interests of the city.

SEC. 112. [*As amended by Sec.* 20, *Chapter* 757, *Laws of* 1873.] The mayor, comptroller, president of the Board of Aldermen, and the president of the Department of Taxes and Assessments, shall constitute a Board of Estimate and Apportionment, who shall annually, between the first day of August and the first day of November, meet, and, by the affirmative vote of all the members, make a provisional estimate of the amounts required to pay the expenses of conducting the public business of the city and county of New York, in each department and branch thereof, and the Board of Education, for the then next ensuing financial year. In such provisional estimate they shall include such sum as may be necessary for the payment of the interest on the bonds of the said city and county, which shall become due and payable within said year, and such sum as shall be necessary to pay

the principal of any bonds and stocks which may become due and payable from taxes during said year, and also so much as may be necessary to pay the proportion of the State tax required to be paid by the city and county of New York in said year. Such provisional estimate shall be prepared in such detail as to the aggregate sum allowed to each department and bureau as the said Board of Apportionment shall deem advisable. For the purpose of making said provisional estimate, the heads of departments and the Board of Education shall, at least thirty days before the said provisional estimate is required to be made as herein provided, send to the Board of Apportionment an estimate in writing, herein called a departmental estimate, of the amount of expenditure, specifying in detail the objects thereof, required in their respective departments, including a statement of each of the salaries of their officers, clerks, employees and subordinates. The same statement as to salaries and expenditure shall be made by all other officers, persons and boards having power to fix or authorize them. A duplicate of these departmental estimates and statements shall be made at the same time to the Board of Aldermen. The Board of Apportionment shall consider such departmental estimates and other statements in making the provisional estimates herein provided, and in approving the salaries of the officers, clerks and other persons before named. . . . After the final estimate is made, in accordance herewith, it shall be signed by the members, and when so signed the said several sums shall be and become appropriated to the several purposes and departments therein named. The said estimate shall be filed in the office of the Comptroller and published in the *City Record*. . . . The said Board of Apportionment may, from time to time, by the affirmative vote of three members, authorize the issue of the whole or any portion of any stock or bonds which are now by law authorized to be issued, upon compliance with the provisions of law authorizing them. The said Board of Apportionment may, from time

to time, on the application of the head of any department, authorize the transfer, from one bureau or purpose to another in the same department, of any sum theretofore appropriated for the purpose of such department or bureau, but no department or officer shall incur any expense in excess of the sum appropriated. . . . Any balances of appropriations remaining unexpended, after allowing sufficient to satisfy all claims payable therefrom, may at any time, after the expiration of the year for which they were made, be transferred by the comptroller, with the approval of said Board of Estimate and Apportionment, to the general fund of the city, and applied to the reduction of taxation.

. . . . . .

Sec. 118. The several departments shall continue to possess the same powers and perform the same duties as heretofore, except as herein otherwise provided.

Sec. 119. The city of New York is hereby excepted from the provisions of an act entitled an act to establish a metropolitan police district, and to provide for the government thereof, passed April fifteen, eighteen hundred and fifty-seven, and of the acts amendatory thereof, and any sections of statutes and provisions of law which created said district are hereby repealed; and the city of New York is also hereby excepted from the provisions of the act entitled an act to create a metropolitan sanitary district and board of health therein, for the preservation of life and health, and to prevent spread of disease, passed February twenty-six, eighteen hundred and sixty-six, and of the acts amendatory thereof, and any sections of statutes and provisions of law which created said district are hereby repealed; and the city of New York is also hereby excepted from the provisions of an act entitled an act to create a metropolitan fire district, and establish a fire department therein, passed March thirtieth, eighteen hundred and sixty-five, and the acts amendatory thereof, and any sections of statutes and provisions of law which created said district are hereby repealed. The act to amend the charter of the

city of New York, passed April seventh, eighteen hundred and thirty; and the act to amend the charter of the city of New York, passed April second, eighteen hundred and forty-nine; and the act to amend an act entitled an act to amend the charter of the city of New York, passed April second, eighteen hundred and forty-nine, passed July eleventh, eighteen hundred and fifty-one; and the act further to amend the charter of the city of New York, passed April twelfth, eighteen hundred and fifty-three; and the act supplementary to an act entitled an act further to amend the charter of the city of New York, passed April twelfth, eighteen hundred and fifty-three, passed June fourteenth, eighteen hundred and fifty-three; and the act to amend the charter of the city of New York, passed April fourteen, eighteen hundred and fifty-seven; and the act relative to the charter of the city of New York, passed April three, eighteen hundred and sixty-three; and the act to make provision for the government of the city of New York, passed June third, eighteen hundred and sixty-eight; and the act entitled an act to reorganize the local government of the city of New York, passed April fifth, eighteen hundred and seventy; and the act entitled an act to make further provisions for the government of the city of New York, passed April twenty-six, eighteen hundred and seventy (save sections twenty-seven and twenty-nine thereof); and the sixth section of an act entitled an act concerning the police life insurance fund, and the powers and duties of the police department of the city of New York, passed March seventeen, eighteen hundred and seventy-one; and the act entitled an act to amend an act to reorganize the local government of the city of New York, passed April fifth, eighteen hundred and seventy, passed April the eighteenth, eighteen hundred and seventy-one (save so much of section five thereof as relates to the establishment of a scale of water-rents, and sections six and seven of said act); and the act entitled an act to make provision for the local governments of the city and county of New York, passed April nineteen, eighteen

hundred and seventy-one, so far as said act relates to the city of New York, are hereby repealed; and all acts or parts of acts inconsistent with the provisions of this act are also hereby repealed; but the repeal of the act hereinabove cited of April fifth, eighteen hundred and seventy, and the acts passed subsequently thereto and hereinabove cited or referred to, so far as the same or either of them relate to any department by this act created, shall not take effect until the organization of any such department as provided for in this act. The charters of the city of New York, known as Dongan and Montgomerie charters, so far as the same or either of them are now in force, not inconsistent with the provisions of this act, shall continue and remain in full force. This section shall not prejudice or affect any right accrued or legal proceeding commenced by reason of any thing contained in the acts hereby repealed, and so accrued and commenced before this act takes effect, except so far as herein specially provided for. The ordinances of the Common Council of the city of New York, in force on the first day of April, eighteen hundred and seventy, and all ordinances passed and adopted since the first day of May, eighteen hundred and seventy, and in force at the time of the passage of this act, are hereby revived and continued in full force as city ordinances, subject to modification, amendment or repeal by the Common Council of said city.*

. . . . . .

CHAPTER 251. 1873.

AN ACT to provide for the regulation and licensing of scavengers in the City of New York. Passed April 22, 1873, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. From and after the passage of this act the mayor of the City of New York shall have sole and exclusive

* *See* Chapter 326. Laws 1873.

power to grant licenses to scavengers for the removal of night soil in the City of New York. "The mayor may make rules and regulations, specifying the duration of such licenses, and the causes for which they may be revoked, and also in relation to the removal of night soil in said city and therefrom; whoever shall violate and not conform to either of said regulations shall be subject to a penalty of ten dollars for each offense, to be recovered by action in the name of the mayor, aldermen and commonalty of the City of New York, in any court having jurisdiction thereof; where the misconduct was wilful, the offender shall be subject to a penalty of fifty dollars for each offence, to be recovered as aforesaid."

SEC. 2. All acts or part of acts, and all laws and ordinances inconsistent with this act are hereby repealed; "scavengers duly licensed as above provided shall not be restricted, prevented or prohibited from carrying on their business except by action brought in which a trial by jury may be demanded by either party thereto."

SEC. 3. This act shall take effect immediately.

CHAPTER 839.

AN ACT to authorize the Board of Health of the Health Department of the City of New York to make a contract to remove the contents of sinks and privies in said city. Passed June 26, 1873, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The Board of Health of the Health Department of the City of New York is hereby authorized to contract with any responsible person or persons, up to the first of May, eighteen hundred and seventy-five (or the sooner determination of a contract made by and between the mayor, aldermen and commonalty of said city of the one part, and Daniel Gallagher of the other part, bearing date May first, eighteen hundred and sixty-five, by which the former agreed, among other things, to deliver to the latter all the contents of sinks and privies, as therein specified until the first of

May, eighteen hundred and seventy-five), to furnish during the day, as well as the night, the necessary boats for receiving and removing, and to remove and deliver all the contents of sinks and privies, as Thomas Andrews, by a contract, between him and the mayor, aldermen and commonalty of said city, bearing date May first, eighteen hundred and sixty-five, agreed to furnish for receiving and removing, and to remove and deliver such contents, and in relation thereto, at a price not exceeding thirty-three thousand dollars per annum, to be paid in equal monthly instalments, and to require and receive satisfactory security in such form and amount as such board may approve for the faithful performance, by the person or persons to whom such contract may be awarded, of all and every of the provisions of such contract on his or their part. For any breach of said contract by such contracting party or parties, an action may be prosecuted in the name of the mayor, alderman* and commonalty of the City of New York, in any court having jurisdiction thereof, against said party or parties, his or their sureties, or both, to recover the damages sustained by such breach or breaches, as the same may from time to time to occur; but nothing in this section contained shall be construed to legalize the contract or contracts for the purposes herein stated.

SEC. 2. This act shall take effect immediately.

CHAPTER 636.

AN ACT relating to the Board of Health of the Health Department of the City of New York, to the Commissioners of Health and the Officers of the said Department, their duties and powers, and the expenses of the said Department. Passed June 15, 1874, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The Board of Health of the Health Department of the City of New York shall use all reasonable means

* So in original.

for ascertaining the existence and cause of disease or peril to life or health, and for averting the same, throughout said city, and shall promptly cause all proper information in possession of said board to be sent to the local health authorities of any city, village or town in this State which may request the same, and shall add thereto such useful suggestions as the experience of said board may supply; and it is hereby made the duty of said health authorities to supply the like information and suggestions to said Board of Health.

2. In the exercise of the powers and duties of said board in the presence of great and imminent peril to the public health by reason of impending pestilence, as confirmed and vested in and enjoined upon the said board by the sixteenth section of chapter seventy-four of the laws of eighteen hundred and sixty-six, the assent in writing of three members of the said board, instead of six, as there prescribed, and the assent of the mayor of the City of New York in place of the Governor of the State, shall alone be required. The said board having first taken and filed among its records what it shall regard as sufficient proof to authorize its declaration of such peril as aforesaid, and having duly entered the same in its records, it shall be its duty to take such measures, and do and order or cause to be done such acts, and make such expenditures beyond those duly estimated for or provided for the preservation of the public health, though not herein elsewhere or otherwise authorized, as it may in good faith as aforesaid declare the public health and safety to demand, and the mayor of the city shall also in writing approve. Such peril shall not be deemed to exist except when and for such period as the said board shall declare.

3. Said board shall have the same power in respect to persons afflicted with any contagious, pestilential or infectious disease, as are given by the sixteenth section of chapter seventy-four of the laws of eighteen hundred and sixty-six, in respect to persons afflicted with contagious diseases; shall have exclusive charge and control of the hospi-

tals for the treatment of such cases, and shall have power to provide and pay for the use of proper places to which to remove such persons, as well as to designate such places; and said board may cause proper care and attendance to be given to persons so sick, or removed when it shall be made to appear to the said board that any such person is so poor as to be unable to procure for himself such care and attendance, or that the public health requires special medical care and attendance.

SEC. 2. The authority, duty and powers of the Board of Health of the City of New York shall extend over the waters of the bay, up to and within the quarantine limits as established by law, but shall not be held to interfere with the powers and duties of the Commissioners of Quarantine or Health Officers of the Port.

SEC. 3. All the powers and duties heretofore vested in or enjoined upon the City Sanitary Inspector under and pursuant to the provisions of chapter five hundred and sixty-six, laws of eighteen hundred and seventy-one, are vested and confirmed in, enjoined upon and to be exercised by the Sanitary Superintendent of the Health Department of the City of New York, and certificate required in the first section of the said act shall be made by and in the name of the Sanitary Superintendent, or the executive officer of the said department of health.

SEC. 4. Said Board of Health may sue or be sued in and by the proper name of "The Health Department of the City of New York," and not in or by the name of the members of said board, or any of them; and service of all process in suits and proceedings against or affecting said board, and other papers may be made upon the president of said board, or upon its secretary, and not otherwise; except that, according to usual practice in other suits, papers in suits to which said Board of Health is a party may be served on its attorney.

SEC. 5. The attorney of the Board of Health shall be also its counsel when appointed as such by the said board, and shall have a salary for his services as attorney and counsel, to be fixed by the said board, not to exceed the sum heretofore paid to the counsel of the Metropolitan Board of Health, and in all actions in proceedings against the mayor, aldermen and commonalty of the City of New York, or any other department or person whatsoever, in which any action, order, regulation, ordinance or proceeding of the said board, or of any person acting under or pursuant to its authority, shall be called in question or made the subject of the action or proceeding, the said Board of Health shall be a necessary party, and have the right to answer, to appear and to take part therein by its own attorney and counsel.

SEC. 7. The said Board of Health, if it shall consider the public health or interests so to require, may execute orders through its own officers or persons, and means to be engaged by the said Board of Health; and about the execution of the said order, both the said Board of Police and the said Board of Health shall severally have as well the authority conferred by this act as all the powers and authority conferred by the fifty-third and fifty-fourth sections of the Metropolitan Police Act, passed on the twenty-fifth day of April, eighteen hundred and sixty-four, and of any amendments made to said act or to be made, enlarging such authority; and all powers and authority possessed and exercised by said Board of Police under said act pertaining to sanitary matters, or in conflict with the objects and purposes of this act, shall hereafter be enjoyed, possessed and exercised by said Board of Health. Whatever expenses said Board of Health may lawfully and properly incur in the execution of any judgment aforesaid, or in executing, or in connection with its own orders, made in good faith, or in and about the discharge, in good faith, of its duties, or in satisfying any liability or judgment it may have in good faith incurred or suffered by reason of its acts *done* in good faith as aforesaid, or in satisfying any claim

against its officers or subordinates, arising from their acts in the discharge, in good faith, of their respective duties, shall, so far as established, be paid out of its fund or other moneys, and shall be apportioned, assessed, collected and paid as is provided in the health laws aforesaid, in respect to the expenses of said board, and such sums paid or recovered under this act, shall not be included in or considered as a part of that class of the expenditures of the board in respect to which there is or may be a specific limitation as to amount.

SEC. 8. Said Board of Health may institute and maintain, in the name of said Health Department, all such suits and proceedings as shall be reasonable, necessary and proper, for recovering any moneys expended, enforcing any lien or the payment of any fine, the punishment for any offence, or in other respects carrying out the provisions of the laws under which it acts.

SEC. 10. The said Board of Health shall have full and exclusive power and authority over the removal of night soil and in the removal of dead animals, offal, night-soil, blood, bones, tainted or impure meats, and other refuse matter from said city. It is hereby charged with the duty of causing the removal of the same daily, or as often as may be necessary, and of keeping the said city clean from all matter or nuisance of a similar kind.

SEC. 11. The said Board of Health is authorized to make contracts with any responsible person or persons for the removal of said offal, dead animals, night-soil, and other refuse matter from the City of New York, and to require and receive security in such form and amount as the said board may approve for the faithful performance by the person or persons aforesaid to whom such contracts may, by the said board be, in its discretion, awarded, of all and every of the provisions of such contracts on his or their part.

SEC. 12. Copies of the record of the proceedings of said board, of its rules, regulations, ordinances, by-laws and books

and papers constituting part of its archives, when authenticated by its secretary or secretary *pro tem.*, shall be presumptive evidence, and the authentication be taken as presumptively correct in any court of justice or judicial proceeding, when they may be relevant to the point or matter in controversy, of the facts, statements and recitals therein contained.

SEC. 13. Upon the application of any party in interest in any matter pending examination before said Board of Health, by affidavit stating the grounds of such application, to any judge of a court of record, and asking that any person or persons therein named shall appear before said Board of Health, or any person taking or about to take such examination, at some time or times and place to be stated in said affidavit, it shall be the duty of such judge, if he shall discover reasonable cause so to do, to issue his order requiring such person or persons named to appear and submit to such examination as, and to the extent such order may state, at the time and places to be in said order named; and such order, to be signed by such judge, may be served, and shall in all respects be obeyed as a subpœna duly issued, and a refusal to submit to the proper examination may be punished by such judge, or by any judge of such court, as a contempt of court, upon the facts as to such refusal being brought before any such judge by affidavit.

SEC. 14. If any person shall knowingly make to said Board of Health, or any officer thereof, any false return, statement or report relative to any birth, death or marriage, or other matter concerning which a report or return may be legally required of or should be made by such person; or if any member, inspector or officer or agent of said Board of Health shall knowingly make to said Board of Health any false or deceptive report or statement (in connection with his duties), or shall accept or receive or authorize or encourage, or knowingly allow any other person to accept or receive any bribe or other compensation as a condition of or

an inducement for not faithfully discovering and fully reporting or otherwise acting according to his duty in any respect; then any and every such person shall be deemed guilty of a misdemeanor, and shall be liable to be for such crime indicted, tried and punished according to law, and shall in addition forfeit all compensation due or to grow due from said board.

SEC. 15. The publication of additional provisions in and of additional ordinances of the sanitary code for the security of life and health, and the prevention of accidents and of the spread of disease in the City of New York once a week for two successive weeks in the *City Record* in said city shall be sufficient, and render any further publication of the same in any other newspaper unnecessary.

SEC. 16. This act shall take effect immediately.

NOTE.—There are no Sections 6 and 9 in the certified copy of the Act received from the Secretary of State.

CHAPTER 635.

AN ACT to secure effective vaccination in the City of New York, and the collection of pure vaccine lymph or virus. Passed June 15, 1874; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. For the purpose of more effectually preventing the spread of small-pox in the city of New York, by the thorough and systematic vaccination of all unvaccinated persons residing therein, the Board of Health of the said city is hereby empowered to organize a corps of vaccinators within and subject to the control of the Bureau of Sanitary Inspection, to appoint the necessary officers, keep suitable records, collect and preserve pure vaccine lymph or virus, and to add to the sanitary code as provided by section eighty-two of chapter three hundred and thirty-five of the

laws of eighteen hundred and seventy-three, entitled "An act to reorganize the local government of the City of New York," passed April thirtieth, eighteen hundred and seventy-three, such additional provisions as will most effectually secure the end in view.

SEC. 2. Whenever the amount of vaccine lymph or virus collected by the said corps shall exceed the amount required in the proper performance of its duties, the said Board of Health may authorize the sale of such surplus lymph or virus at reasonable rates, to be fixed by said board. The avails of such surplus lymph or virus shall be accounted for and paid to the chamberlain of the city of New York, as provided by existing laws, and shall be set apart and constitute a distinct fund to be known as "The fund for gratuitous vaccination," and shall be subject to the requisition of said board for the purposes of this act.

SEC. 3. Within fifteen days after the passage of this act the Board of Apportionment created by section one hundred and twelve of the act entitled "An act to reorganize the local government of the City of New York," passed April thirtieth, eighteen hundred and seventy-three, shall, by the affirmative vote of all the members thereof, estimate the amount required to organize and maintain the said corps for the present financial year; and such estimate shall be final, and the amount thereof shall be and become appropriated for the use and maintenance of such corps, and shall be raised in the manner provided by the said section one hundred and twelve of the act herein named.

SEC. 4. This act shall take effect immediately.

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